Resolution No.

A. F. of L. and C. I. O.

WHEREAS: The Taft-Hartley Act proves conclusively the anti-labor attitude of the Congress of the United States as well as other persons in high places in the country, and

THEREFORE BE IT RESOLVED THAT: The International Ladies Auxiliary to the Brotherhood of Sleeping Car Porters go on record as strongly urging a consolidation of the Committee for Industrial Organization and the American Federation of Labor as a means of protecting the labor movement from the forces which seem bent upon its destruction.

Resolution No.

BLOOD TYPE

WHEREAS: Atomic warfare is becoming more of a threat with each passing day, and

WHEREAS: A million or more persons are said to be injured each year in various accidents that require blood transfusions, and

WHEREAS: Seconds sometimes are of importance in the saving of a life

BE IT RESOLVED THAT: The Seventh Biennial Convention of the International Ladies Auxiliary approve a recent proposal by the Chicago Civil Defense Committee, that each person of the city voluntarily submit for a blood test for the purpose of having his blood type tattooed on some portion of his body thereby preventing costly delays in such emergencies and

BE IT FURTHER RESOLVED THAT: The Seventh Biennial Convention of the International Ladies Auxiliary approve this plan as a nation wide, rather than a local precautionary measure owing to the large national accidental death rate.

Resolution No.

CIVIL LIBERTIES

WHEREAS: The fight for civil liberties in so far as the Negro is concerned is in a way separate and distinct from fights waged by most other groups because of the segregation and discrimination pattern of the country as a whole, and

WHEREAS: Segregation and discrimination are practiced and fostered because both are profitable to the unscrupulous business, professional and political interests in every section of the country, and

WHEREAS: A statement recently issued by eight leading scientists in Paris, France, and endorsed by the United Nation's Educational, Scientific and Cultural Organization, which was "that race discrimination has no scientific foundation in biological fact", in other words, that all races are alike as to their physical organism, their mental and tempermental traits although differing in color, and

WHEREAS: The mental and tempermental personality traits as exhibited by Negroes are due to environment, lack of opportunity and to the economic exploitation which plagues the average Negro from the day he is born until the day he dies, rather than to his race or color;

BE IT RESOLVED THAT: The International Ladies Auxiliary intensify its efforts through its outstanding educational program to influence every race, man and woman in every walk of life with a view toward helping to change the present trend of Negro thought and reaction and to fight with all of its organizational might to help put an end to the exploitation of Negro labor and to the ruthless exploitation of whole Negro communities that are being made repositories of crime and corruption by individuals of various nationalities who do not even live in such communities, and

BE IT FURTHER RESOLVED THAT: The International Ladies Auxiliary commend President Truman on his civil rights stand, while unreservedly condemning the United States Government, among others, for being one of the worst offenders where segregation and discrimination are concerned.

Resolution No.

EUROPEAN RECOVERY

BE IT RESOLVED THAT: The International Ladies Auxiliary once again endorse the European Recovery Program as outlined in the Marshall Plan, while vigorously condeming any efforts on the part of the American Government to use its finance, its food and raw materials to aid or to abet the ideological warfares that are kept alive by the American exponents of a so called free enterprize system that appears to be everything but free,

BE IT FURTHER RESOLVED THAT: The International Auxiliary Order go on record as condeming the questionable practices of the corrupt financiers and special interest groups of those war torn countries who help foster the giant monopolies of the world.

Resolution No.

INSTALLMENT BUYING

WHEREAS: Buying on the installment plan and uncontrolled loans by private lending agencies are said to add inflationary pressures and seriously interfer with the economy, with defense preparations and with essential military productions,

BE IT RESOLVED THAT: The Seventh Biennial Convention of the Ladies Auxiliary go on record as approving Government control of loans made by banks, insurance companies and private lending agencies so long as there is a serious inflationary threat to the country, which inflation would lead to a depression of far greater proportions than the one in the 1930's.

Resolution No.

KOREAN INVASION

WHEREAS: The appeasement of Nazi Germany and Fascist Italy by the Democratic nations paved the way for World War II,

BE IT RESOLVED THAT: The Seventh Biennial Convention of the International Ladies Auxiliary approve and commend the President of the United States for the prompt action that was taken under the United Nations Charter to prevent the further invasion of the Asiatic Continent and probably the second invasion of Western Europe by the Communist dominated forces that appear bent upon conquering the freedom loving nations of the world.

Resolution No.

NATIONAL HEALTH

WHEREAS: The health of a nation is considered to be one of its most valuable assets, to be protected and safeguarded from early childhood to old age, and

WHEREAS: Health statistics, as recently released, reveals startling contrasts in health standards in various sections of the country wherein the death rate for certain age groups and for certain racial groups far out numbered that in areals where medical care was being more equitably dispensed,

BE IT RESOLVED THAT: The International Auxiliary Order go on record as supporting and approving a compulsory national health program to be jointly financed by the federal government if it is found that local voluntary plans prove insufficient and inadequate to meet the country's health needs, ,and

Resolution No.

NON-PARTISAN POLITICAL MOVEMENT

WHEREAS: The minority groups are in a better position to bargain with candidates of both political parties when they refrain from being committed to either party thereby safeguarding their political, social, religious and economic rights

BE IT RESOLVED THAT: The International Ladies Auxiliary support the Non-Partisan Political Action movement and that members of all local divisions be advised to adhere as nearly as possible to this principle on the ground that such action on the part of the minority races will add to the effectiveness and the greater protection of their respecitve groups.

Resolution No.

PRICE AND WAGE CONTROL

WHEREAS: The dire threat of a third World War, with America playing the leading role, appears to be a certainty, if not now, at least sometime in the future,

BE IT RESOLVED THAT: The Seventh Biennial Convention go on record as favoring price and wage controls provided the prices allowed industry are kept within a close range of the wages that are paid the worker, and

BE IT FURTHER RESOLVED THAT: The Seventh Biennial Convention of the Ladies Auxiliary approve rationing of vital foods, merchandise and materials, but only when rationing and other controls become essential to the welfare and the safety of the country as a whole, and then only when adequate inforcement machinery is set up so as to prevent the profiteering, the black markets and the inequalities that existed in World War II.

Resolution No.

PUBLIC HOUSING

WHEREAS: Public Housing and slum clearance is a crying need in the blighted areas of every city in the United States, since hundreds of thousands of residents in the richer, as well as the poorer cities, are forced to live in dwellings unfit for human habitation, and

WHEREAS: Such conditions are (tracable) to the powerful interests that oppose a public housing program, mainly because such a program cortails the excessive profits that arise when demands for homes are far in excess of available housing units, and

WHEREAS: The powerful real estate loby of the nation has fought with every conceivable means to prevent enactment of low cost housing legislation and particularly its all out opposition to, and defeat of the cooperative housing section of the 1950 Housing Bill, which would have made available special loans for home building on a low cost cooperative basis

BE IT RESOLVED THAT: The Seventh Biennial Convention of the International Ladies Auxiliary once again endorse the enactment of a national public housing program and that the Local Auxiliaries be advised to create local Housing Committees for the purpose of keeping the membership informed of all housing activities, both for and against a low cost housing program on a local as well as on a national scale,

BE IT FURTHER RESOLVED THAT: The voting records of all legislators be observed so as to be informed of their positions regarding the erection of family dwelling units in their own communities as well as throughout the country as a whole,

BE IT FURTHER RESOLVED THAT: Special efforts be made to retire from office, all officials who are found to be opposing such legislation because of racial prejudice or any reason that would work an undue hardship on the small home owner as well as upon the millions of renters who are now deprived of a decent place in which to live.

Resolution No.

PRESIDENT TRUMAN'S POINT FOUR PROGRAM

WHEREAS: There is a great need for technical skill and other assistance in the underdeveloped nations of the world where living conditions are marked by hunger, poverty and decease, and

WHEREAS: Better living conditions will do much to bring about a more peaceful world and go a long way to stop the spread of Communism which finds fertile ground where hunger and poverty abound

BE IT RESOLVED THAT: The International Ladies Auxiliary endorse Point Four of President Truman's program that was recently presented to the American Congress, since the purpose of the program is to make available the skilled help that is needed to foster new industries and new agricultural methods in places where living standards have not changed for centures

BE IT FURTHER RESOLVED THAT: Since wide spread opportunities will be afforded American workmen wherever this program is put into effect that the Ladies Auxiliary agitate for equal job placements and for open competition thereby providing job opportunities for qualified Negro labor and Negro technicians on an equality with all other citizens of the country.

Resolution No1

POLL TAX BILL

WHEREAS: The United States Department of Justice has adopted the position that any State or Party Official attempting to prevent a person from voting because of color will be in violation of Section 18 of the United States Criminal Code, and

BE IT RESOLVED THAT: The Ladies Auxiliary continue to join the fight for a federal statute to abolish the Poll Tax Laws that maintain men in office whose public record unfit them for such offices, and whose utterances clearly show them to be at variance with the American Constitution.

Resolution No.

RESOLUTION NO. FOUR

WHEREAS:	Resolution No. 4 in the 1948 Convention Proceedings provides for the consolidation of Auxiliaries in cities with more than one is in existence,
BE IT RESOLVED THAT:	This Resolution be amended to read that such Auxiliaries already in existence may retain their present status if desired but that the creation of separate Auxiliaries in a given city be prohibited in the future unless given special privilege by a Biennial Convention when in session.

Resolution No.

TWENTY-FOURTH AND TWENTY-FIFTH INFANTRY REGIMENTS

WHEREAS: American Troops are once again fighting and dying upon foreign soil, many thousands of miles from their home land, and

WHEREAS: America, being a peace loving country was again caught in its usual state of unpreparedness, which unpreparedness resulted in the loss of many lives that might have been saved, and

WHEREAS: Those first lives, according to reports, were Negro lives, which we feel were sacrificed under less degrading conditions than was experienced by others of their racial group due to the wide spread segregations and discrimination that has existed in their country's Armed Services,

BE IT RESOLVED THAT: This Seventh Biennial Convention accept this loss of life as the price that a citizen is required to pay in defense of his country and as a sacrifice of men who willingly gave their lives to bring the freedom to others that they themselves did not enjoy, but which loss will not be in vain so long as their dying opens the way for those of color, who will be required to make similar future sacrifices in the interest of their country.

BE IT FURTHER RESOLVED THAT: This Convention bow its head in silent prayer for those gallant young men at the conclusion of these deliberations.

Resolution No.

TAFT-HARTLEY ACT

WHEREAS: The Taft-Hartley Act has seriously weakened the position of the organized labor movement by placing certain restrictions upon the bargaining relations that formerly existed between labor and management, and

WHEREAS: Organized labor has been forced to forego many of its protective clauses and provisions such as certain health plans, working rules, conditions of employment and membership responsibilities

BE IT RESOLVED THAT: The International Ladies Auxiliary Order condemn this law as an invasion of the rights of millions of American citizens whose only offense is a desire to improve their standard of living and to give greater security and protection to their homes and families

BE IT FURTHER RESOLVED THAT: The Brotherhood Auxiliaries continue to observe the voting record of the respective members of the Congress with a view toward participating in labor's efforts to defeat those who support this obnoxious and un-American Bill.

Resolution No.

TENANT FARMING

WHEREAS: Tenant farming contains the mechanism of a cruel and ruthless form of human exploitation which reduces almost countless thousands of persons to a deplorable and reprehensible state of existence, and

WHEREAS: The Tenant Farmer is subjected to treatment almost beyond human endurance, which is purposely designed to break his spirit thereby causing resistance and escape to be extremely unlikely

BE IT RESOLVED THAT: The Convention denounceand oppose a system that makes it possible for one human being to maliciously exploit and deprive another of the right to live according to and in keeping with the accepted standards as prescribed by a modern civilization.

Resolution No.

TRADE UNION LABELS

BE IT RESOVED THAT: The members of the Ladies Auxiliary to the Brotherhood of Sleeping Car Porters support the organized labor movement by refusing to cross a picket line, by refusing to purchase articles of clothing, household furnishing, et cetera, that do not bear a union label, also by boycotting all businesses that are placed on the "unfair" list by the various labor unions.

Resolution No.

UN-AMERICAN ACTIVITIES

WHEREAS: Americans in Government service, in public life and in various professional pursuits have been besmirched, browbeaten, insulted and in some instances damaged almost beyond repair, while others have been deprived of a means of making a livelihood by the loose and unfounded accusations uttered with impunity upon the floors of the United States Congress

BE IT RESOLVED THAT: The Seventh Biennial Convention of the International Ladies Auxiliary condemn any custom in a democracy that makes it possible for a favored group to set itself up as being above the declarations contained in the Constitution. Also the other laws intended to protect the rights and liberties of all citizens of the country

BE IT FURTHER RESOLVED THAT: The Auxiliary particularly condemn Senator McCarthy of Wisconsin for his disgraceful and slanderous use of the special privileges and protection given him by his fellow collegues in the Senate and for his base disregard for the reputation of those unfortunate enough to cross his Congressional path.

Resolution No.

W. P. A. and P. W. A.

BE IT RESOVED THAT:

The International Ladies Auxiliary favor the re-establishment of federal W. P. A. and P. W. A. projects should existing social security benefits and other safeguards as adopted by the individual States prove inadequate to meet the needs of a large scale unemployment situation that might result from the existing inflationary spiral.

Resolution No.

WHITE SUPREMACY

WHEREAS: There appears to be a deliberate attempt on the part of certain evil forces in America and particularly in the beknighted sections of the southland to foment racial friction by spreading a doctrine of white supremacy, and

WHEREAS: Those same forces and same individuals have been spreading their particular brand of poison in their respective sections of the country more from a desire to enrich and entrench themselves than from a desire to preserve the purity and dignity of the white race as their own actions prove, and

WHEREAS: This band of American insurrectionists are not only attempting to run the entire country according to their own designs, but are, by their own actions, holding Americans up to redicule before the darker races of the entire world

BE IT RESOLVED THAT: The International Auxiliary Order go on record as condemning as un-American, a people capable of such behavior, and that the Auxiliary member everywhere, strive unceasingly for greater unity, greater solidarity, greater racial pride, confidence and cooperation so that Negro men and women may become stronger and more united in the face of their opposition, thereby building the mental, moral and phsical resitance that is likely to be needed to vanquish their foes.

Resolution No.

WHEREAS: The housing shortage is more acute and perhaps even more desperate than any other family requirement throughout the country, and

WHEREAS: The demand for low cost dwellings is far in excess of those being supplied, either by public housing programs or by private builders, and

WHEREAS: Conditions at present do not seem to warrant control of materials that are required by the building industry to the extent of causing President Truman to place residential building first on his list of curtailment recommendations

BE IT RESOLVED THAT: The Seventh Biennial Convention go on record as opposing government curtailment of this already vital homefront shortage, unless or until there is an overall allocation of all essential materials that are required for an all out war time effort but that are now being diverted into luxury and other non-essential production.

ASA PHILIP RANDOLPH

SUBJECT FILE BROTHERHOOD OF SLEEPING
CAR PORTERS

Ladies Auxiliary
2nd Triennial Convention

Sept. 1956

— A Winner Never Quits and a Quitter Never Wins —

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REPORT OF PROCEEDINGS

Second Triennial Convention

of the

Ladies' Auxiliary
to the
Brotherhood of Sleeping Car Porters

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Held at St. Louis, Missouri

September 10th to 12th, Inclusive

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MONDAY AFTERNOON SESSION

September 10, 1956

After the opening song by the assembly, and a prayer, the proceedings continued as follows:

President Wilson: Sister Caviness will have charge of this portion of the program.

Sister Caviness: Madam Chairman, Officers of the International, Officers, Delegates and visiting friends, I hope that you all can hear me, because I contracted a little cold.

This is the Workers' Education Program.

Today brings me to a familiar task. Throughout the past years it has been my privilege to serve as chairman of the Workers' Education. This program is a living and vital part of the International Convention as well as an everyday pattern of our way of life.

Workers' Education is something we must take religiously in this land of the free and the home of the brave. The world is looking at these United States to see if the democracy we have is workable for all the people. There are many things that exists here today that puzzles the world as well as most of us.

First, our system, which continues to have second-class citizens, segregation, discrimination, poor housing, low income, value of the dollar and many more ills which can be pointed out, and yet you hear from some trying to make you believe that you never had it so good.

Just recently, by radio, television and the press we have had information that everything is fine and peaceful. As the saying goes, "All of this must be taken with a grain of salt."

The Workers' Education Program must know the truth and the truth will make you free. The day of complacence is gone. We are aware of the existing evils in our land and it is up to us to be on the move to correct them so we can be a beacon in a troubled world.

Today we cannot say every man is born equal and is entitled to all the benefits of these United States when men are being persecuted and prosecuted for asking for what is justly theirs: Equal opportunities, decent housing, education for the children, right to join organizations of their choice without bombings, riots, economic pressures and the revival of the Ku Klux Klan and related organizations, with its main purpose of peddling racial and religious hatreds, intimidations, to frustrate and hinder justice for all the people.

These conditions do not bring friends to us from abroad or at home.

It is a mockery to this land when a segment of these United States is saying, before they will give the minority an equal chance for education and recreation, they will go so far as to deprive their very own the opportunity of public schools, athletic participation and recreation.

Workers' education has a larger job to do now than ever before. The problems that affect us are becoming greater each day. We are interested in what is good for the masses, and not for the privileged few. We cannot stand still and mark time to be lulled into a state of well-being.

A chain is no stronger than its weakest link. Until all men, regardless of creed, are respected as equals, the chain will remain weak. This adage holds true for the Ladies' Auxiliary. We should search ourselves to see if we have done everything that should have been done. If found wanting, we should rededicate ourselves to the task that is before us and not be afraid to tackle the problems with firm hands and consecrated hearts. Don't let up until Democracy, Peace, Plenty and Goodwill comes to our land and the world.

In this convention we are asking the cooperation and teamwork of the younger people who are able and willing to carry the message of the Workers' Education to every corner of this great land of ours.

Recently, I read an article under the heading, "Indian Miss on Warpath to Stir Voting Interest." She has become so distressed about conditions affecting the Indian people that she has made definite plans to do something about it and that is by getting the message to her people, even though it will work a hardship on her.

My plea to you is to register or pay your poll tax. As you know, there are several states that still require the payment of poll tax as a qualification for voting.

Get your qualifications, coupled with facts and the proper information. Create your own warpath, with God as your guide. Then, you can be sure of heading in the right direction.

Victory will triumph over evil!

A Delegate: Madam Chairman and officers and members of this convention: I would like you to indulge my interruptions to make a brief observation. I'm quite sure I speak the sentiments of all of the delegates here when I say we came here with the specific purpose of receiving the benefit of the committee's report. I'm quite sure of all of us here are fully aware we are at a disadvantage in trying to hear. We hear the roaring from the back and the streets. I'm wondering if we aren't willing to sacrifice with the heat to close the windows to cut out the roaring of the streets, to hear what our Sister and her committee have brought to us.

Sister Caviness: A guest who lives in this city; a member of a Typographical Union for 44 years, an organizer and President Emeritus of Missouri State Federation of Women's Auxiliary of Women, St. Louis Joint Council of Women's Auxiliary and the St. Louis President Trade Union Legion. May I present to you a friend of ours and a friend of the St. Louis Ladies' Auxiliary, in the person of Sister Mary E. Ryder.

Sister Ryder: Madam Chairman, delegates and officers of this convention: I bring you the greetings of the Joint Council of Women's Auxiliaries, which will be supplemented by the President of the Auxiliaries when I have finished with a few brief remarks to you.

It is good to see you again. It has been many years since I addressed you in your convention that was held in St. Louis. It is good to know that you have held the lines and that you are working faithfully and loyally and devotedly, and it is good to know that the men have recognized you and have given you their confidence and respect by having you meet with them in the same city and working with you through the year in combined efforts. All of these things spell success for the auxiliary movement.

An auxiliary, of course, is supposed to be, and originally was, just a group of women that would form a rather social unit to create a stronger social unit among the members of the union and to see that the husbands went to the Trade Union meetings and use the Union-made dollar by spending it for Union-made service and products; but more grave duties have been placed in your hands at the present moment.

Perhaps at no time in the history of the Trade Union movement have we faced a greater crisis than we do at the present moment. For on the side of the movement is, of course, what is known as big business and while it is true the Union has grown big and militant and strong, its powers are nil against those who would destroy the movement such as the Taft-Hartley Law to wreck the movements and cost the Union millions of dollars and hours of worry, and, today we find ourselves at the collective bargaining table not able to present our case, but foot-tied with attorneys and cases and not able to make out what used to be simple, when the men went in and bargained with their employers. It has become specialized.

I heard of a machine in the plant that became unruly and the men and the superintendent worked for hours and were able to do nothing. They sent for a specialized service company and a man came in and took a very scientific look at the machine and got out a hammer and tapped it about five times, and in a few moments the machine was running smoothly; but when the bill came in it was $50, and he was only in two minutes and he tapped the hammer five times. The superintendent could be heard all over the place bellowing and yelling about the bill, "What the devil do you mean? You tapped the machine five-times and you are in here two minutes and send in a bill for $50." And, the next day he got the bill, which read, "Five minutes for tapping the hammer five times, fifty cents. Knowing where to tap, forty-nine dollars, fifty cents."

So, that is what we have to learn now; where to tap. Our men, of course, have been wise and judicious.

First I'd like to say this to you, as women: You have very high duties to perform. The world, of course, is in utter confusion and men are prone to blame things on us ever since the beginning of time.

I believe I told you the story, but some of you may not have heard it, of the little girl in school and the little boy when asked to write a composition on Adam and Eve, and the little boy said, "The Lord made Adam and he rested for nine days and he made Eve, and he hasn't had any rest since," but the little girl wasn't to be outdone, and this is what she wrote, "The Lord made Adam and he looked at him for nine days and said, 'My goodness, I ought to be able to do better than that,' and he made Eve."

So, you see you are an improvement, but don't ever get to think this is a woman's world, it is not. This is a man's world. God so ordained that, and while men are born to lead, we are born to follow, and we are ordained, because of the high spiritual gifts that God gives to women. Our role is to follow the men, and, of course, whenever they see fit to place us side by side with them, to offer us duties that put us on the level with them, well and good, but let us always remember that the Creator did give man power, strength, physical abilities such as lifting and pulling and dragging and things we can't do. Men can engage in combat and strike themselves with vicious blows which women do not do, but you have an important role, but it has changed a little. Instead of the one weapon we asked to use, which was the economic weapon, which was to spend it carefully, to spend it for Union men and women and to buy Union articles whenever we could and see that the Union dollar would help to maintain the help of Union women and men so we can grow strong and militant, but another duty has been placed on you, it has been growing thirty-five years; it has been thirty-five years ago this August that the right of suffrage came to women. Women like you and myself, wives and daughters and sisters of workers, many of us were not among those that asked the right to vote. We felt our place was at home, the duties of the home were so great it did not give us the time, and, naturally you will not find in the ranges of women of suffrage, so many of the workers' wives, but times have changed and this new and significant and important role of citizenship that has been placed in our hands now is the other weapon that labor will have to use to survive, and so that is the thing that you must learn to do properly. You must accept the information that comes from the ranks of labor as to the voting. Strength that you can give, because you know, women represent fifty-one per cent of the voters. You outvote the men, you outlive them according to medical history and you outsmart them in a lot of ways, because it is now acknowledged the greatest wealth of the corporations is in the hands of women.

So, you see we do have a great power. We must not dissipate, but learn to use it carefully and cautiously. We are sticking to the old slogan of Sam Gompers, who said, "Reward your friends and defeat your enemies." You can get the voting record from Washington. You can get it from your state legislatures and you will see those who vote for legislation that is opposed to the workers of this country. You will easily read the records of those who help to create the vicious legislation and fight on every turn those who attempt to levigate this legislation that has been enacted for one purpose, it is a Union busting legislation, the Taft-Hartley Act.

We have not been able, of course, to repeal that legislation. We have not been able to amend it in such a way we can take the sting out of it, but we are hoping to this time, because the workers of this country are aroused, and we hope you as women are aroused with them.

I want to say a few words to you about the social problems of the day. We all know that ignorance, poverty and prejudice are the oldest ills of which we are afflicted. We know the Trade Union movement, and by the way, your highest duty after serving God, and thank God you live in a country you may serve God in any manner you see fit, because according to the Constitution of the United States, we are free to meet in religious assembly and in the faith of our fathers and mothers, whatever was taught to us, and we can serve God in any manner, and your highest duty is to God and your next is to this great country of America, because we know with all its social ills and all its prejudice and poverty and lack of educational facilities we do live in the greatest country on earth and we have been willing to lay down our lives for America, and we will continue to do so, and we want you to know that the Trade Union movement has been the greatest builder of America because we have built the American way of life. We have given to you, the Trade Union movement. This Sleeping Car Porters Organization has revolutionized not only the conditions of the work of the men that served at low wages and long hours, but they have revolutionized your life, and see what it has done for us.

Look at your homes and what it has done. We do have better homes and better education and opportunities to travel, and thank God the Trade Union played the biggest part in giving us that, and the other is, of course, your last duty after your Trade Union, you must think of this thing we have to fight in order to keep this Trade Union movement. God love the children. We are glad they are here, even if they do cry, because it is a good sign to know we have children and they are here, but there is a grave challenge to the home and institutions and we do know that we, as women, must answer that challenge, because we realize something is happening to the American home. And some of us feel like we have to leave that home, when duty calls, when economic necessity, driving a woman out where she has to actually necessary thing. We will never enlighten the people who have prejudice in their hearts until we can get them close to God, because God is the only one that can remove that horrible thing that seems to be assailing us from certain parts of the country, because I don't know why it should come from that part, because if there was ever a part of the country where your people have given service and been part of the families, where you have given service, how they can ever forget it, where the children were carried in your arms—I'm speaking of older ones, like myself—and we know some of the problems of your people, and how those people could play any part and exhibit any prejudice is something we must ask God to forgive us and pray and hope programs of education will be carried into the Deep South to make them understand we are Americans and we support her little children, no one should quarrel with her, but we should be part of that movement to ask the State, if necessary, ask the local authorities, if necessary, to help that woman remain with her little children while they need her, in their young and tender years, and I think that is one thing we women must think about. We all want to be career women and be in public life, but we do know we have a role to play, and that is, of course, to guard the home, stand at the doors of your home with a gun, if necessary, and not let the enemies come in there to destroy your homes and your children.

I am, of course, passing by the exhibits of prejudice, but, as I said, don't worry so much about the social barriers, because there are millions of people. You know there are a lot of people who don't want any part of me because I am a labor woman. I could no more enter their homes and clubs, but I am not so worried about that as to see that you have good homes and good opportunities for your children, and I am not going to try to 'til we get a program of education which is the want to go forward, hand and hand, no problems of race, creed and color.

Labor says there can be no discrimination of race, creed and color, and we know we are guilty even the Trade Union movement was afflicted with prejudice and still is, but slowly and surely, by the fine men that head the movement, we will break down the barriers, but we have to go further than that, the people with the social ill, which is prejudice, the oldest thing in the world, and let us all hope we can eradicate it.

And I'm going to close with another story, because there are a lot of things I would like to say to you good women assembled here, but I am thinking about a woman taking a training in Red Cross, first aid, and coming home from her meeting one day she saw a man lying prone on his face in the street and she said, "Now, here is where I can apply my techniques," and getting out of her car, she got out the first aid kit and started administering to the man, and he looked up. He said, "Lady, I'm trying to hold a lantern for this man down in the manhole, trying to work. I don't know what you are trying to do, but this is no time or place for it." So, maybe this is no time or place for me to say more, but I want to say welcome to you, because you were part of the Joint Women's Auxiliary, who have been trying to bring units and strength to our programs of education, and I'd like to tell you we have also established in this city a program of welcome known as the Mary Ryder homes, and it does give me great pride to tell you for four years we housed and fed free, women of your race as well as ours. We had two homes and we now have three homes. It has been nothing short of miraculous the service we have rendered in the community just as working men's wives, not society people, to give five or ten thousand dollar donations, but we did work and render a wonderful service.

We do want you to come back to our council, and your officers understand we are working as well as what you are trying to do for your people.

God preserve you and keep you to continue your fight, not only for your people, but America where we live in this land of plenty, and I'd like at this time to introduce the President of the Joint Council of Women's Auxiliary to give you a few words of not only welcome, but to invite you to become a part of us locally.

I wish all of you could, but I know you are from far distant places.

Sister Gertrude Graw: Madam Chairman, President, Mrs. Ryder and delegates, I don't know how to express myself. First, I want to say I have a parking meter that is slowly and surely running out, but I want to say to you this is indeed a surprise to me. Mrs. Ryder mentioned to me sometime back she was going to a meeting and I didn't realize until I got here you are a convention, and I want to say I want to add my own welcome to you, to our City of St. Louis and I think you from out of town not only will enjoy, if you have the opportunity, some of our lovely scenic places. We have not only a lovely park and buildings and nice stores, we have one of the muddiest rivers in the country, and things you can enjoy while in St. Louis, and as delegates I want to say to you after the convention, doesn't the convention do something to you? Why after the convention you go home with a shot in your arm and going to set the world on fire.

I happen to be on the International, the Amalgamated Streetcar and Bus Service, and I'm an organizer, and we have throughout the United States and Canada a lot of your race in our group, so I'm accustomed to working with you ladies.

In Los Angeles, California, we have a number of them, and I also organized an auxiliary in Leavenworth, Kansas. Some of our finest officers are your people, and you people are hard workers and that is what we need. It is a very very hard—I'm sure you now realize it is a very very hard thing to do—to follow in back of this lady, because she said what I might have said, because she has all of the questions and answers, and I am glad of the opportunity to go out with her, because I have learned many many things from Mrs. Ryder.

If I made only one friend in the labor movement and it was she, I would feel amply repaid. I have a broader vision of the things which confront the labor movement. It gets to be such a part of you you can't leave it alone. I often thought I am going to let it alone and let someone else take over, but it gets to be such a part of you; you ladies that work know, and our work is important at the present time, because the men have at last awakened to the fact that our vote counts as much as their own; that with their good auxiliary members and their husbands they are an unbeatable pair.

Our vote is all we have. You don't have the millions of dollars, but we have a vote. I worked in COPE office this morning and I'm full of being registered. Be sure to be registered. Go to the polls and vote. Don't vote because so and so, your neighbor says so, or so and so says this and that; be sure of that, look up his record. If he isn't our friend, vote against him, because if we don't, where are we going to be, because our twenty years that our leaders have established and have died for they are going to fall by the wayside unless we defeat our enemies and help our friends.

Take that home from St. Louis and be sure to stress at your meetings to get out and vote. I want to say to the President of your auxiliary in St. Louis, I hope you do become part of our Joint Council. Again, I hope you do affiliate, because, as we know, in being united it is strength and we do a lot of work because it is made up of butchers and bakers and candlestick makers.

You have a President and three members to make up the Council. The dues are only ten dollars a year and that helps to carry on the work of the Council, and you take that back to your meetings and become part of our Council. The fourth Thursday in September is our meeting date, and if you can't see your way clear to come then, come the fourth Thursday in October or on down, as you see fit.

It is nice to be here this afternoon and a surprise, and I wish each one of you a pleasant journey home and hope your contacts with each other make you a better person, and God bless you.

A Delegate: Madam President, before these ladies go, I'd like to make a motion to give them a vote of thanks for the splendid talk that each of them gave us. We are from all parts of the country and Canada, and we want to show our full appreciation.

A Delegate: I second the motion, Madam President.

President Wilson: It has been moved and seconded we give those two speakers a vote of thanks.

(Whereupon, the entire assembly gave the speakers a rising vote of thanks, by applause.)

Sister Caviness: Sister Dorsey of New Orleans, who went to Education School.

President Wilson: Since my voice seems to carry better than Sister Caviness', with her permission I will present the next two persons on the program.

We were very delighted to learn when we asked these members, when we extended them the invitation to appear, that they could come.

Sister Dorsey from New Orleans is one of the newest members of the organization, and she was quite anxious to receive a scholarship to the summer Education School, and was granted one last summer and is anxious to tell you of her experience and the knowledge she gained at the Summer Labor Board School, in Madison, Wisconsin.

We ask you to listen attentively, because you may want to apply in some future time for a scholarship. I know she's bubbling over and wants to tell you about her experiences in this school.

Sister Dorsey: To our International President, to our various Vice-Presidents and to our International Secretary-Treasurer, Sister Tucker, and all of the Presidents of the local auxiliaries of the United States and the whole auxiliary of New Orleans:

It's really a pleasure for me to be here, and I want to first thank our local President of New Orleans for giving me the opportunity, because it was she, Mrs. Lassiter, who asked me if I was interested in applying for the scholarship, so I want to thank her for making it possible, and I do want to thank the International Auxiliary, as I said before, for giving me the opportunity, because I know the scholarship fund is an International project and every auxiliary has contributed to that project, and it is you that I am grateful to for giving me the opportunity to receive the scholarship.

The school for Workers opened its 31st Institute at the University of Wisconsin School for Workers at 1:00 p.m., on Sunday, July the 10, 1955, for registration.

The Institution was sponsored by the Wisconsin State Federation of Labor and the University of Wisconsin School for Workers. There were sixty-six Union members representing forty-two locals and central labor leaders. Most of the delegates were from Wisconsin;

others from neighboring states, and one as far away as Louisiana, your humble servant.

I arrived on the University campus at 12:30 p.m., July 10, 1955; completed registrations by 2:00 p.m. and was ready for a week of concentrated work.

Union members divided their time between morning classes, afternoon workshops and evening programs. A recreation director was on hand to provide a program of more relaxing activities during the relatively few moments of leisure time left to the students.

Sixteen courses were offered. Each student was required to take four. I selected the following courses, because I felt that the following courses that I selected would be more beneficial to me and the local auxiliaries, and, of course, you would reap more benefit from the information I gained to present to you today.

The courses were: Health and Welfare Planning; now this course dealt with insurance plans and pension benefits. Some of them were interested to know why I selected that course. Of course, you know we are all interested in health plans and benefits. When they found out I was connected with the railroad, they readily agreed that the railroad pension plan was the best and, of course, the instruction was the best qualified, and we had all types of information, because other labor unions, their insurance plans are not as good as the railroad plan, so they were interested to know that, and by the way, before I go on any further, I do want you to know that in this report I am referring to labor unions. It was quite unfortunate, and maybe not, I was the only one representing an auxiliary there and the rest were representing labor unions, and their problems were our problems, and all of the problems they discussed in the various classes were the ones we encounter in our auxiliaries. I will mention unions, but everything they discussed applied to the auxiliary.

In this course we discussed the various pension plans and the various pension plans of wives and families and various plans and the railroad plans, the insurance plan and the care for families. That plan was considered as one of the best plans.

The next course I selected was Union Administration.

Now this was a course to help active local union leaders strengthen their locals by the following means:

Union Administration, now I mean it applies to administration of auxiliaries. The following means of strengthening their locals were: By stimulating democratic leadership and democratic participation. That is, in your meeting, in your committee meetings, democratic participation and democratic leadership. Of course, we discussed various methods. You understand, I tried to get my report down as concisely as I could. We do have committee meetings and organization, but we don't have democratic leadership and democratic meetings. We may have one person on a committee who is domineering, and a chairman on a committee working on a committee with four or five people and he makes out the plan and says, "Here it is," and that is undemocratic. And we tried—looked at plans that were more democratic.

Two. By analyzing administrative and organizational problems that face the local. And, of course, we have administrative and organizational problems within our organization, and we must know, as leaders, how to analyze them and thresh them out in different methods, and, of course, everything we mentioned there, those were our problems, too, even if they were unions, we have those problems in our auxiliaries.

Three. By planning better meetings. Those were their problems and those were our problems in New Orleans, and I'm sure those are your problems, too. Planning meetings will arouse the interest of new members and surely hold the attention of our old members.

Four. By developing leadership capacity; by handling internal political problems properly. We have those problems, too, and, of course, by becoming aware of the proper role of the officers and the function of the executive board. You know I smiled when the International President mentioned executive boards they had appointed and established in the various states and the members didn't know the function of the executive board, and that was discussed, too. In the union they don't know the functions as well as in our organization, and we played with that pro and con.

And something else we placed great stress on in this Union Administration; what committees should do and not do, and what was most interesting to me, because I sat there with my mouth open, but in this school it got in my bones and it is there, too, but what interested me there was a committee on bargaining committees was set up and they went through the various procedures that really our husbands in the various unions go through on these real bargaining committees, and they carried on terrible, and I was amazed, and I asked the instructor if they carried on like that in the bargaining committee and he said, "Yes," and I'll say this, our husbands are on some of those bargaining committees and they come home irritated, and it is up to us to not become irritated, because believe me, they go through something; and on these mock bargaining committees was really interesting to me. There was a lot that went on as to committees, mock committees and various committees set up, and I'm sure you do that, too, in our workshops here, committees where there are chairmen, as I said before, who want to carry on everything and where that chairman makes all of the decisions, and some don't want to work with that chairman, because she has pickers and choosers and one committee will meet too long and they don't want to work in that committee, and that all goes on in the organization, but I want to say this to you, those union problems are our problems, not only this auxiliary but all of the auxiliaries.

The next course I selected was Labor History, and of course, being new in this labor movement, my father is a union man, but I never worked with auxiliaries, and I'm really new in this, and this labor history course was taught by an individual who has been in the labor movement of Wisconsin for forty or forty-five years, and he was awarded the Doctor of Humanity Degree by the University of Wisconsin for his consideration in the labor movement, and that was Mr. Jack Fredrick, and he was a good instructor in labor history; and specific questions we dealt on was: What is trade unionism? When did unions begin in America? What led to the downfall of early unions? What is the significance of unity? How do various unions differ in their organization and structure? Is America a better place to live because of unions?

Now, you just toy with those questions in your mind. I'm sure you can think of the answers. That is where really the labor movement got in my bones, in this labor history class, and it is very good, and, of course, there are various books on labor history and various pamphlets you can get if you don't know as much as you want to know about labor history, but you get some material on labor organization. Your locals get these small books on labor history and distribute them. This class was good and interesting as the others.

The fourth course I selected was Building a Union Education Program. And, of course, that was an enjoyable course, too. This course dealt with planning educational activities that will strengthen the union, such as ways to make union meetings worth attending; and exploring how to sell the union to the public as well as its membership.

The class decided whether the problem is to interest new members or to activate old members. The problem centers around interest and attention. The interest of new members must be gained and the attention of the older members must be aroused.

That is our main problem, how are we going to gain the interest of new members and how are we going to arouse the attention of old members, and of course, we had various ways. Some of them—one of the main things they brought out was your interesting meetings, having a program and projects and in the summers—I mean public relation, taking the union to the public. They mentioned various courses.

Suppose you had an individual in your auxiliary who is qualified to teach Red Cross courses. Have a course set up in your union hall and invite the public to take part. You are bringing the public to the union. Counselling services. Do you have needy members in the union? Have you gone about making a survey of the members to see if they are needy? Have you set up a place to tell them where to go? If they are needy, that is something to bring in the public; and various ways. Different projects, as the lady who was speaking mentioned to me, when she spoke here, purchasing union material, union-made material. I didn't know anything about the union bug and there is a union bug on cigarettes. Do you folks look at the package to see if the union bug is on there? And when you buy sugar, do you look for the union bug to see if there is a union bug on the package? We can encourage wives of members to purchase union goods; because I didn't know anything about the union bug and that was interesting to me.

The whole purpose of this class was trying to arouse and educate the public as well as your union members. Do you have a library corner in your meeting place where your members can come in and get all types of materials about unions and legislation, and so forth? If not, set up a library corner in your union hall and meeting place. That is a form of education, too. Of course, we mentioned various projects. The summer recreational projects are educational, too; picnics for the children, and if they aren't members of the auxiliary—if they aren't children of the auxiliary members, that will bring them in. They had done that. They selected families, destituted families and homes that needed repair and the union men went out and did that. They repaired homes and certain families they gave baskets to, needy families and Christmas parties for union children and even if they didn't belong to the members, and by doing that, so many members came into the union, and that is some very good methods to encourage members to come into our auxiliaries.

There were varied recreational facilities and programs. All work and no play makes Jack a dull boy!

The recreational programs at the conclusion of the classes were well taken care of under the leadership of the recreational director. Some of us were tired after the tour of the campus. Fred, the recreational director, got the gang together for volley ball, and the picnic gave the members a chance to blow off steam in volley ball and baseball, and those not participating in the ball games were interested spectators, and Thursday a tour trip was arranged to Truax Air Field, and closing was a boat ride on Lake Mendota, and that ended the program. The evening programs climaxed our activities. To climax each day's events at the Institute were evening programs. At the Sunday night kick-off, the school was fortunate to hear George Haberman, President of the Wisconsin State Federation of

Labor, as feature speaker. He emphasized the importance of "Take Home" knowledge. We emphasize that, too, for the benefit of our local. At other evening meetings, students gathered information from Jack Barbank on the coming merger, and from Fred Hoehler, authority on social security, and on the free press, and on Wednesday night was our "bonus night." After we had spent a day at the picnic, that was our bonus night. On Thursday evening, Ray Taylor of the Milwaukee Labor Press was very interesting and he emphasized the benefits of purchasing Labor Press because they viewed the facts as they were, they didn't go around and try to smooth the facts. They printed it as they were, and I think that is one of the two in the United States was the Milwaukee. The week's biggest event was the graduation ceremony and party Friday night, and after the presentation of certificates, the evening social closed the cover on the 1955 AFL Summer Institute.

Thank you. I have a picture of the Institute and the certificate if you would like to see the picture of the Institute and everything, the certificate of graduation, and we did make a picture of the Institute.

President Wilson: At this time, we are going to have to request a motion for an adjournment. We have an appointment with the International Executive Board, and we must be there, and I understand it is very near the hour to be at the place. Only the International Executive Board has to leave, and Sister Dailey will leave someone here to take care of the invitations.

Sister Rosina Tucker: Madam President, may I make this statement: We have a delegate from Charlotte, North Carolina, and I would like that the Credential Committee will take care of her.

President Wilson: I understood last night that the badges will be sufficient admission, but we will have to have that verified again. You will get your invitations while you are here.

Sister Esther Crawford: Madam President, Esther Crawford, I offer a motion we adjourn until 10:00 o'clock tomorrow morning.

Sister Cora Thomas: Cora Thomas, of Los Angeles, California, I second the motion.

President Wilson: It has been moved and seconded that this session adjourn until 10:00 o'clock in the morning.

All in favor say "Aye".

(Whereupon, the entire assembly responded by saying "Aye".)

Those opposed?

(No response.)

President Wilson: Mae Dailey of St. Louis.

Sister Mae Dailey: Mae Dailey of St. Louis. I'd like to make an announcement. Might I have the names of those going on the bus trip.

(Whereupon, further discussion was had off the record, after which the meeting was adjourned until 10:00 o'clock a.m., Tuesday, September 11, 1956.)

TUESDAY MORNING SESSION

September 11, 1956

After the opening song by the assembly, the opening prayer was led by Sister Ella McBride as follows:

Sister McBride: We ask you this morning, dear Lord, to give us love that flows from breast to breast and heart to heart. Help us, dear Lord, to do the things that will be pleasing in Thy sight. Help us to do the things we know ourselves that will be pleasing to Thee, not things of ours, but things left here for us to do, the work that You left more than nineteen hundred years ago. Let us do it like you did it and we know there will be no wrong doing with it. Help us, dear Jesus, to do everything we can for the upbuilding of this land that we live in. Help us to make it a better place to live in, and precious Savior, we are asking you this morning to give us a better determination than we have ever had before in these dark days. Any day that is confusion, it makes a dark day for us. Let us have that eternal life of a bright light that will shine forevermore. Oh, precious Savior, keep Your loving arms around us so no harm will befall us, and we thank You for those who left their loving homes to come and meet one another like when You were here, going around doing good. Let us do it all of the time, not some of the time, but all of the time. Keep Jesus in our hearts and in our minds, and keep Jesus in all we are to do. We are not here for a form of affection, but to do the work that you left for us to do, and let it be done in Your Name, and now, precious Savior, in the world lies that of tribulation, but they will overcome the world. Your words say, "This is my Commandment to love one another as I love you. No greater love has a man than that a man lays down his life for a man," and such love we have.

Thank you. Amen.

President Wilson: We will have a report from the Credential Committee.

Sister Jordon: Mrs. Lillian Jordon, President of the Charlotte, North Carolina, Auxiliary. One of the ladies came yesterday saying her credentials were misplaced, and I'd like to motion that Sister Jordan be seated in our convention.

Sister Lee: I second the motion.

President Wilson: It has been moved and seconded that Sister Jordan of North Carolina whose credentials have been misplaced, be seated in this convention.

You have heard the motion. Any discussion? Any questions?

(No response.)

President Wilson: All in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed?

(No response.)

President Wilson: So ordered.

Thelma Trotter of St. Louis.

Sister Trotter: We're all sorry we're late, but it just couldn't be avoided.

At this time, we'll listen to our Secretary of Dallas, Texas.

Sister Annie May Taylor: To our International President, other International Officers, and members, our Convention Committee wishes to submit the following report:

St. Louis, Missouri, delegates, 1; Dallas, Texas, 1; Atlanta, Georgia, 1; Asheville, North Carolina 1; Salt Lake City, Utah, 1; Forth Worth, Texas 1; Toronto, Canada, 2; New York, 1; Chicago, Illinois, 1; Omaha, 1; Tampa, 1; Montreal, Canada, 1; Minneapolis, Minnesota, 1; Cincinnati, 1; Oakland, California, 1; Houston, Texas, 1; Kansas City, Mo., 1; Pittsburgh, Pennsylvania, 1; Cleveland, Ohio, 1; New Jersey, 1; Denver, 1; New Orleans, 1; Charlotte, North Carolina, 1; Boston, Massachusetts, 1; Detroit, Michigan, 1; Jacksonville, Florida, 1; Louisville, Kentucky, 1; Indianapolis, Indiana, 1; Los Angeles, 1; Washington, D. C., 1; Sister Lee of Georgia, Charlotte, North Carolina, 1.

We have proxies as follows:

Sister Helena Wilson is proxy for Winnipeg, Canada; Sister Katherine Lassiter is proxy for Richmond, Virginia; Baltimore, Maryland; Albany, North Carolina; Buffalo, New York; Montgomery, Alabama; Birmingham, Alabama, and Savannah, Georgia. Total proxies, 2; total delegates, 31. Grand total proxies and delegates, 33.

I said in the beginning, this is a partial report. I have two others to add to this report to make a total of 35. The two we are adding, St. Paul, Minnesota, the delegate proxy is Sister Halena Wilson, and Portland, Oregon, proxy, Sister Halena Wilson. That makes a grand total of 35.

President Wilson: You have heard this report coming from the Credential Committee. What is the pleasure of the convention?

Sister Rosina Tucker: Madam President, if you will excuse me, I will go and get my book, but Birmingham, Montgomery, as I remember it, are unfinancial. Of course, in getting the material for our contest we had to include the auxiliaries because they had paid their obligations from 1954, January of 1954 to a certain point. We had to recognize that fact, but those auxiliaries are unfinancial, Montgomery, Birmingham—what other one was it?

Sister Annie Mae Taylor: Montgomery, Alabama, and Birmingham.

President Wilson: You have heard the report coming from the committee with the comments from the International Secretary-Treasurer. I think we have had the motion that this partial report be accepted. What is the pleasure of the convention?

Sister Viola Moon: International President, officers and members, Viola Moon; I make the motion the report be received—the partial report be received and may continue.

Sister Rosie Anly: Sister Rosie Anly, Fort Worth, second the motion.

President Wilson: It has been moved and seconded the committee's partial report be accepted and the committee continue.

You have heard the motion. Any discussion? All those in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: All those opposed.

(No response.)

President Wilson: So ordered.

Sister Rosina Tucker: Madam President, may I also bring to your attention —well, I can't say auxiliary, but our member from Albuquerque, New Mexico, we have a peculiar situation there. We have an auxiliary and we have a representative from that auxiliary and our Los Angeles convention. Since then, the auxiliary has sort of fallen apart, but the President is so interested in the auxiliary that she has kept up her obligations and she's paid up through December 19, 1956. She's here and I want to place before this organization to see if you will seat this one delegate, who is so interested in this organization that she is willing to carry on alone until she can get the others together—

Sister Jessie Crawford: Madam President, Jessie Crawford, Denver, Colorado. I move this lady who is so interested in our organization be seated as a delegate of the convention.

Sister Thomas: Cora Thomas of Los Angeles; I second the motion.

President Wilson: It has been moved and seconded that the delegate from Albuquerque, New Mexico, be seated. You have heard the motion. Any discussion? All those in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed?

(No response.)

President Wilson: So ordered.

The next committee to be heard from is the Committee of Rules and Order of Business.

Is the committee ready to report?

Sister Minnie A. Lee: Madam President, the committee is not ready to report, and I would like to ask the names of all my committee that we might go out immediately and come out with a report.

President Wilson: The names of the Committee of Rules and Order of Business is Minnie A. Lee, Sara Allen, Katherine Lassiter and Gertrude Ross. Please stand and your chairman will retire at once and come in with the rules for the convention.

A Delegate: Madam President, Mrs. Nester says she isn't a delegate.

President Wilson: Who is your delegate?

Sister Angelina Davis: Sister Davis, who is the delegate from New Orleans, is the delegate.

President Wilson: While this committee is out, we feel that the Committee on Workers' Education should complete her job. She didn't quite have time to finish since we adjourned to keep an important appointment yesterday afternoon, and there is one other person who received a scholarship award, and we want to hear from her. I think we were all greatly benefited from the fine report made here yesterday by a comparatively new member, and we feel there is a great deal of information and inspiration from these fine reports brought back from our students to these summer schools.

At this time we are going to ask Sister Caviness if she won't come and complete her job so we can get this portion over with. As you know, Sister Caviness doesn't speak very loudly, but maybe if she gets before this microphone—

Sister Caviness: Madam Chairman, officers and members, delegates, visitors and friends, we take this pleasure this morning, the opportunity to finish our program from yesterday. The time ran out on us and we didn't get one of our scholarship awards to make her report. So, from that, this time I am going to ask Miss Velmer King to come forward and make her report from the scholarship award.

Sister King: Sister Caviness, International Officers, I am very happy to stand before you and to give you a somewhat abbreviated report. I am going to make the report a little shorter than perhaps I would have done, in view of the fact I guess our program will be delayed.

I, too, as your speaker yesterday afternoon, benefited greatly from my time at the Rutgers University Workshop. Rutgers University is a university in the State of New Jersey. It is a state-owned university. It is a very large university and one of the oldest in the United States. It has over three thousand acres and well worth a tour by any of you if you are in that area to see the university and all the facilities thereon.

The Workshop took place in July and

it lasted for nine days. We arrived on Saturday afternoon and registration took place. There were students from a lot of countries. A very small session, you might say an individual Workshop, there were only eight people making up the Workshop. So, almost everyone had to work, no place for anyone to sit down with eight people. Everyone had to work and work diligently. In the afternoon they opened up what they call a Planning Session. That is something that is very good for any of our auxiliaries, because when you start, if you don't have anything definite in mind you cannot plan. So, in order to inform those to learn, they started a plan for what we'd do for the ensuing period, and they called it a Planning Session.

I don't have any written reports. I'm going to give you notes as they were prepared there and go through the entire program for the week very briefly.

The Planning Session, the group decided what they would do for the balance of the week, and since at this time so many of the eight people who were there were workers, they decided they would like to consider for their first session a guaranteed annual wage. This was something that as an auxiliary member, we considered, too, concerned about previously, and something we were not aware of, but as labor leaders and members of the auxiliary with our husbands, sometimes concerned with the guaranteed annual wage, we were happy to be in that session. We learned a lot and we do have something on the guaranteed annual wage here, and if during the session any of you would like to read it, I would be happy to let you read it. Time won't permit to tell about the G.A.W., as we call it, to give you a full report. We were told also in planning any type of a program, one had to be familiar with resource materials, and so because the group was so small, everyone had to go out and dig. We walked—I think—Rutgers University is large and it took us fifteen minutes to get to the library and we had to walk over and it is quite a little jaunt, and we spent the afternoon digging up resource material on this guaranteed wage I was referring to. This was one of the pamphlets we found in the library (indicating).

The first thing we found at the library was the fact we were not familiar with the use of the library, so the librarian taught us how to use the library for research materials. So many of us were afraid to help in the auxiliary, because we didn't know where to find material, afraid to make suggestions, and afraid to debate, because we didn't know how to find material, but you can find a lot in the library. You don't have to go to school. Anything you want to find out, you find things out at conventions, but in the meantime you go to the library to help find material to make your meeting more interesting.

Our day was full. We started at 7:30, that was breakfast, classes started at 8:00, and we worked until 10:00 in the evening. We had an afternoon break and a luncheon break.

The following day we went into automation, and so many of us, those of us that are working a part—our husbands in the Labor Union today, are familiar with what automation can do. I have something about automation, and those interested in finding out more about automation may borrow this pamphlet. I think as labor people it would be helpful to be familiar with the things you read in the paper.

Sister Wilson has said it might help if we gave you a brief explanation about automation, so I am going to. "Automation, excitement in industrial circles over automation. A word so new that it is not found in most dictionaries. Installation of automatic controls of startling capacities have engendered robot factories. Automation has as near as many definitions as it has applications.

It has been described most simply as the operation of machines by other machines rather than by human hands. Material may be used to refer to anything from mere mechanized handling of materials to the kind of automatic processes at which all phases of production, manufacture assembly and inspection are carried out. To the use of automatic controls without human help, much of the work is done."

I don't think this particular industry will be affected because of the fact they can't put machines on to help people up on the trains, but you may be affected because they can't put on special engineers and won't need as many people on the train, and even you wives working, I know I work in a hospital and in that hospital we are just about to move and we have two giant machines, and instead of twelve people when we move to the new hospital, those are going to be dispensed with and two people will do it. I don't want you to be frightened when I say automation affects you in that way, it just means you have to get up and learn something else. You have to have a new trade to learn to work a machine and maintain the machine. It may make it possible for you not to work forty hours or thirty-seven, but bring about that thirty hour a week, and because of automation, you have to be specialized, your salary will be higher and the thirty-hour week will give you the same take-home pay. While automation takes away our jobs, it may benefit the worker.

Another thing that was discussed at the Workshop was the Right to Work Laws. We prefer not to call them the Right to Work Laws, we call it the Right to Wreck Laws. In some of your states, I think in seventeen of the forty-eight states, at the moment the state laws provide for the Right to Work Laws. That is something of interest particularly at this point when you Americans are going to be voting. We would like you to consider what your politicians are going to do, whether they endorse this Right to Work. Even though we have a President, Randolph, and all of these other people, if the great majority of the forty-eight states pass these Right to Work Laws, our own Trade Union is going to be greatly affected, and you will find you won't have the choice of labor and the right to work. You will have your closed jobs, but it won't make any difference, because the state will have the Right to Work Laws, and seventeen of the forty-eight states have the Right to Work Laws. I think it would be well for all of you Americans, and particularly before our next president comes in, to try and get one of these books so you will be familiar. They are free, all you have to do is write the American Federation of Labor in Washington, D. C., and they will send you one of these booklets. I think it would be very helpful. We want to have our Trade Union functioning and adequately and the best possible.

Also during the time we were there we learned many different ways to make programs interesting, so in the evening we had films. Having films, that helped us as far as labor people having to make a program more interesting, more educational and instructional. One of the films we saw was a film called "Dues in the Union." I think if I mentioned some of the names and you would write them down, it might be helpful, because in the public library you can get it. This film was called "Dues in the Union." It explained what a dues dollar paid for. How the member in the film became interested in attending his union meetings. It also went on to show what other ways attendance can be increased. It gave a bibliography how to run a union meeting and dues for the meeting and good turn-outs. I think if you get a film it would make for a more interesting meeting. It won't be exactly the same for us, but certainly you know how the dues dollar is used and most of us just don't know what happens to our money, and that is something you can find out through this film. We also had a film called "Cumberland", and it showed how to start a union. If you are in a shop and you are not getting on too well and you start a union, it goes through the processes of how to start it and how to foil the top official.

Another of the evening sessions brought to us Miss Tony Sender, the AFL representative at the United Nations. They told us about the International Labor Organization and the labor movement. That was a very interesting session, and I was very pleased to renew acquaintance with Miss Tony Sender, because I heard her in '47 when I attended the Hudson Short Labor School and she was back from Germany. Most of you know something about the International Labor Organization and the United Nations, so I won't go into a great deal about that.

We discussed, as your delegates yesterday said, the history of the American labor movement. We went into it, of course, a little differently, because at this time the merger of the AFL and the International Trade Organization was being considered. I think it might be worthwhile, I have a copy showing the structure of the two organizations. We are merged now, but there was a difference in structure. American Federation of Labor, you should know about that because that is the one we are members of and have been for some time. I will give you the breakdown on the other.

At the top they start with their International and National and Organizing Committees. Then they have their State Industrial Union Councils. After that, just following below that, they have District Councils and Joint Boards of the same councils. In the cities, the City Industrial Union Council and the Local Unions and the various Shops, who are all part of that International Union, and at the bottom you have members who formed the membership.

We talked about workers' education, but we won't go into that, because the Chairman of the Committee explained to you yesterday about workers' education, and it was interesting to note that much of what she said is what we learned workers' education was made up of.

We learned how to lead a discussion. The responsibilities of a leader, the methods of encouraging discussions, methods of summarizing discussions, and, as all should discussions should end, we learned how to evaluate a discussion. You can have a lot of discussion and you don't gain anything, you have been talking around and around in circles. So those of you have discussions, it might be well to evaluate your discussions to see if you benefit anything from your discussions.

I'm going to give you, in brief, a summary of the educational techniques used in the schools in planning and making use of more interesting meetings. I started out by saying the first thing we did was plan the discussion. That is No. 1 in planning a good program. The second thing we did was we wanted to know more about the Guaranteed Wage and for that, they brought us in a lecturer. That is another way for an interesting meeting. Another way for active participation is general discussion, and we had that when we discussed the merger. We tried to put that into action—that also took in role playing and someone who represented the CIO and someone who represented the AFL, and we went into the entire thing, whether you think a merger was good. Role playing for the member, that will get them into active participation. I mentioned we have films in the evening. That is another form of highlighting a meeting, a film to run. That also can form a basis of discussion. Sometimes you find it difficult to get people to discuss things, and provoke ideas from a film, you can get them to discuss it through the means of film more or less. We saw film strips similar to the films, but they run on a strip. You are taught that it will help to have a resource person. At the discussion we had our regular leader, but because of the fact he wasn't too familiar with the subject, we brought in another person that is an expert and that person is known as a resource person. If you are a president and find you are not a good speaker and you have something that is not familiar you would go into the public and get yourself a resource person and bring him in as a speaker.

We find that you can help educate your membership through the use of pamphlets and there are a number and all sorts of pamphlets you can get from your state government, federal government and state agencies, and they are free and can be very helpful to your membership.

Another technique they used was something they called the flannel board, which was similar to the bulletin board, except it had a green flannel on it, and put up illustrations on it as to what the lecture was going to be about. A flannel board is rather expensive and unless you have a large union you can use a large board and pin your things on.

Another form of education can be a field trip, and we took one such field trip to the United Nations where we listened to two lectures and saw two films. That is something you can do in your meetnigs, you can have an away-from-home meeting to see things that might be interesting to the group. You can use committees to improve your techniques. We took in bus sessions. We didn't do it successfully at the school, because we had only eight members. If you have a large session and can't get participants, you can use a bus session. You get a small circle to talk about one section of the topic and other sections talk about other sections of the topic, and you can cover the full topic, and you can elect a secretary to take down findings of the group and all of the sections report at the end of the findings, and it becomes a full discussion on the evaluation.

Another session was the quiz or questionnaires, and there was talk about civil liberties and segregation in the schools. We had a civil liberty quiz and we made it as a twenty-questions. You can make it more interesting by use of twenty questions and you pass this around, one to each, and let them say yes or no to the various questions. That is another technique of improving meetings. I already mentioned role playing, and we had what is known as a panel discussion. By a panel discussion, we mean using several of our very valuable members, perhaps four or five, even resource people if necessary, sitting in front and they are asked questions and they answer the questions and they help to stimulate the questions in the minds of the members by questioning one another and also making a little interest in the meeting.

Education, as you also heard yesterday, takes a form of recreation, because we agreed all work and no play makes Jack a dull boy. So, we used the work of the technique it doesn't always need to be volley ball. We went to see a rogelactor (inaudible) farm. There are only two such farms in the world, so we were anxious to see that, and we went to see the Rutgers campus, because it covers three hundred miles and we took it by car.

We had a picnic in the evening, and that was interesting because we, here in the United States and in Canada, play baseball all of the time. One of our students came from Switzerland and he never saw a baseball game, and it was amusing for him to see a baseball game. It was educational for him, but it was exercise for us, but even recreation can become educational.

The last thing we did before we closed was to have an evaluation. Certainly, all of the people that spoke to us over the week were experts, but even experts can conclude, so on Saturday we had advisors coming in from the previous school, the year before, and the director of the Rutgers Labor School coming in with our members and we went over the evaluation program that had been planned for the week. We thought of ways and means of improving the service of the members coming this year and how the sessions could be made more interesting. We had a newspaper and when I said we had recreation, we did have recreation, but if you wanted to do your work, the recreation periods were cut very short. I mention this, to say that a newspaper is very interesting and can be helpful. All of your members don't come out to your meetings and if you can have a newspaper or a mimeographed sheet of two or three pages, giving the highlights of the meeting, it encourages your membership. Some people have talents and don't know it, and they can submit things and that is a way of keeping them interested, by submitting things to your newspaper, and keeping your members interested. If the members are interested, they will come out the next time to see what is happening.

I don't think we should take much more time to go into this. I just wanted to mention that a great deal of the education program can be helped by the use of songs, and all day long we sang, from 8:30 until 10:00 at night, you didn't go back to your room, and the use of the songs were helpful. We didn't have a piano, but a strum on the violin put you in the mood for a song and keeps you attentive through a long dry lecture, if you start off with a song.

I don't know of anything more, but perhaps if you would like to ask questions, I would be glad to answer them at this time.

If there are no questions, I want to add I am deeply grateful to the International Ladies' Auxiliary for having the opportunity of attending Rutgers Labor School. We concluded our session, as did the previous speaker, with a graduation, and all those who fulfilled the course, were presented certificates. So, you all you have not had the opportunity of going to a labor school, have something special in your auxiliary so we will have more money in the auxiliary so we will have the money for all of you to go to school. It is very helpful and can be very educational to you.

Thank you.

Sister Caviness: Madam President, officers and members, I think that is a wonderful report. Mrs. Dorsey's report on yesterday and Mrs. King's report today; I think it might give so much in work education. We try to put this workers' education before our group, because we know it is what we need to do. We need to know more about the working of our organization and the working of so many things we don't know, so I want to thank these two ladies for their wonderful report.

I believe that is all. I'm turning the meeting over to Sister Wilson.

President Wilson: Thank you, Sister Caviness, for presiding over this portion of the convention, and I, too, want to thank Sisters King and Dorsey for bringing such a fine report. In the past we have relied largely upon these reports that were brought in from the persons who have received scholarship awards. We used to have six and seven, six of them in each of our conventions, and it was really the highlight, and we do this so we can show to you newer members and many of you younger members who are going to have to carry on the work of this ladies' auxiliary, the future of this organization, the planning and the building belongs to you younger women, and we certainly want you to be better prepared than we were. We just brought this organization that you have today out of thin air. We had no chart. We had nothing to work from. We brought it out of our brain and it was a difficult undertaking. Everything has been charted for you and all you have to do is take advantage of the opportunities. We haven't worked hard enough in our locals in the past several years. We know what you can do if you want to do it. There is no question in our minds whatever when you write in and say you can't do this and you weren't able to do it. You weren't able to do it, because you didn't want to. There is nothing a group of women can't do if they want to. We want you to build up your scholarship funds. We used to have eight and nine hundred dollars to give awards where we could benefit the auxiliaries as a whole. So, we are coming to you again and we want you to respond wholeheartedly and even though you do not go yourself, you are preparing someone else for the work of this organization.

So, we want to thank these two young ladies again for their splendid reports. You are going to hear from Montreal and see how it has learned and is putting into practice, and it has one of the finest educational programs to report in this education. So you see, if you apply what you learn, it can be valuable, and I want to thank the sisters again.

Sister Nora Fant: Madam President, Nora Fant of Jersey City, New Jersey.

In view of the fact that yesterday when the President made her most challenging address we were pressed for time, and that was closed without a motion or comment. Following Sister Wilson's most challenging report came on the report under the supervision of Sister Caviness of workers' education, and we were challenged to the nth degree. The report that was submitted by the young woman yesterday and by the preliminary remarks made by our chairman, Sister Caviness, and this morning we certainly were lifted to the heights of education in the report from Sister King that she had gathered from Rutgers University.

I would like to offer a motion so that the convention would have a chance to express their sentiments on the reports. My motion is those reports be received with a rising vote of thanks.

Sister Elizabeth Austin: I, Elizabeth Austin, second that motion. Jacksonville, Florida.

President Wilson: It has been moved and seconded that the reports referred to be received by a rising vote of thanks.

All those in favor will stand.

(Whereupon, the entire assembly stood in a rising vote of thanks.)

President Wilson: We thank you very much.

At this time, we did not fill out all of our committees yesterday. You know we were a little bit out of order, or disorder, rather, and at this time I would like to complete those committees. We have a finance committee, and I would like Sister Tucker, Sister Dailey and Sister Wilson to serve on the Finance Committee. That committee will report to you the expense of this convention.

Then, I also at this time would like to appoint an Auditing Committe in the persons of Sister Florence Ball-Jones, Sister King of Montreal and Sister Moon of Jersey City. That will be our Auditing Committee.

Now, we are going, at this time, members, to have reports from the zone supervisors, who will give you an outline of the work and the activities that have taken place in the zones over the three year period. As you know, there were very few visits made by the zone supervisors in this period of time, so that they will have to bring to you what was sent to them by their auxiliary representative, and most of it has come in too late to have been revised or to have been curtailed and so you will have to bear with us with some of the reports that will be lengthy, but they will, all of them, be interesting, so Sister Katherine Lassiter, being the First International Vice-President, will make a report on the activities within her zone. However, before that, I have been informed that the Committee on Rules and Order of Business is ready to report, so we will hear from that committee at this time.

Sister Crawford: The Committee on Rules and Order of Business is ready to report. Sister Angelina Davis will read our report.

Sister Davis: St. Louis, Missouri, September 11, 1956, International President, officers, delegates and members, we the Committee on Rules and Order of Business wish to make this report as follows:

That the convention shall open promptly at 10:00 o'clock a.m., and adjourn for lunch at 12:00 o'clock, and reconvene at 1:30 p.m. and adjourn 4:00 o'clock p.m.

The following are rules of order:

Delegates shall be allowed three minutes for discussions.

We recommend financial members attending the convention shall be allowed to express themselves on the matters.

One member will not be allowed to speak more than once on any subject until all members have been allowed to speak.

Sara Allen and Angelina Davis, Me, the Chairman, Chicago, Illinois.

President Wilson: You have heard the report coming from the Committee on Rules and Order of Business.

What is the pleasure of the convention?

Sister Boone: I, Noreen Boone of Los Angeles, move it be accepted.

Sister Rosa Taylor: Rosa Taylor of Cleveland, second the motion.

Sister Wilson: It has been moved and seconded the committee's report from Rules and Order of Business be accepted.

Any discussion?

All in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

Sister Wilson: The motion is carried.

At this time we have a report from the International Supervisor of the Eastern Zone, Sister Katherine Lassiter.

Sister Katherine Lassiter: Honorable Chairman, the International President of the Ladies' Auxiliary and to the delegates to this, our eighteenth convention, and friends and well wishers of this great organization:

Greetings in the name of the Eastern Zone. Ours has been a visit of three years here as it was to be a program designed to tighten the structure of the zone itself, to extend influence, intensify and have interesting activity, and to align ourselves through our local organization even more closely to the matters of the community. To align ourselves through our local organizations, through our local organization even more closely to the creative life of the community, a goal that has paid civil rights throughout the land. But we still have a long and tortuous road ahead to achieve total equality, socially and civilly. To align ourselves through our local organization even more closely to the creative life of the community, a goal that has paid off greatly in the extension of civil rights throughout the land. But we still have a long and tortuous road ahead to achieve total equality, socially and civilly, might have dimmed the magnitude of that already realized nor hinder. Be dedicated and hopeful to the job that lies ahead. Rededication seek reports from the various locals which is my privilege to present to you at this time.

At the Workshop of the Organization Building featured in our last convention, the conference technique was shown to be the most useful in maintaining interest in a given project, both within and without the organization. Our Eastern Zone decided early in 1954 to utilize its effectiveness and to incorporate only national conferences as a regular convention followup, so that the women would be working together during the period during our national convention, not only within their own locals, but with each other. A session planning culminated within the conference within the Eastern Zone of which we all may be justly proud was held in Richmond, Virginia, October 24th to the 29th, 1954. Its sessions were well attended and its message enthusiastically received. Now, its program Sunday, October 24th, at 3:00, p.m., a public meeting at the Mount Zion Baptist Church, Pastor Reverend A. W. Brown, speakers were A. Philip Randolph, our International President, and our President, Sister Halena Wilson, Milton P. Webster and M. D. Stone, President of the Pullman Division, and C. J. Smith, President of the Train Car Porters Division. The music was by the senior choir of the Mount Zion Baptist Church and the Charlotte Zion Symphonettes. It illustrates how the auxiliary can and often does function as a creative portion in the community.

The Charlotte Symphonettes was a group of ladies, discovered by Sister Tucker, of five women of unusual talent. They just came together because they loved to sing, without program or plan. After that a reception of the gathering Sister Rosina Tucker arranged a series of talks between this group and the officers of the Charlotte Local. That resulted in the sponsorship of this group by the Charlotte Auxiliary. This relationship has flourished and many of the concepts of this group are extremely welcome.

A reception given us in Richmond of the ladies' auxiliary at the Ideal Hall at 210 North Clay Street, that was Sunday evening. Monday, October 25, 1954, at 9:30 a.m., a session of the original conference, a joint meeting of the visiting delegates, a Richmond Ladies of the Brotherhood, and the Ladies' Auxiliary was held at the Y.M.C.A. The chairman was Brother T. T. Patterson, Eastern Zone Supervisor. The meeting was called to order by Brother M. D. Stone, President of the Richmond Division, Pullman. Invocation given by Reverend A. W. Brown and the keynote address given by A. Philip Randolph. The subject discussed, Grievances and Claims, was thought to be of equal importance to them as well as to the men. Each morning the interesting Brotherhood sessions were attended by the ladies.

At 2:30 p.m. the ladies' auxiliary opened their session with prayer by Sister Georgia Boone, President, Jersey City Local, and with the singing of the Negro National Anthem with Sister Tucker at the piano, Sister Wilson, our International President, was introduced by Sister Austin of the Jacksonville Local. The afternoon was highlighted by Sister Wilson's opening address.

At 8:00 p.m. we attended a soiree given the visiting delegates of the auxiliary at the Mary B. Ranker Community Center, 112 West Cherry Street, of the Brotherhood of Sleeping Car Porters.

Tuesday, October 10th, at 10:00 a.m., this is the ladies' auxiliary, a workshop organization in action. This was more demonstration completely acted out showing the actual conduct of meetings preliminary and preceding board meeting, a monthly auxiliary meeting, a subcommittee meeting. In each of these models, the preparation in presentation of reports, Educational Committee, Financial Committee and Nominating Committees were stressed.

2:30 p.m., a motion picture, "How to Hold a Meeting," was shown before the completion of the afternoon workshop session.

After that, one of the conference's highlights was a get-together acquainted session, where each delegate spoke from her heart of the auxiliary, its meaning and its inspiration. It has been said many times that this was one of the most interesting activities in the history of the auxiliary, and such a session will be one of the internal parts of our future regional meetings.

Wednesday, October 27, 1954, 9:30 a.m., joint meetings, the delegates to the Richmond Conference Ladies' Auxiliary and Brotherhood of Sleeping Car Porters met in session. Chairman H. E. Jones, Vice-President of the New York Division. Speaker, Honorable Horace Harper, member of the Railroad Retirement Board, and James L. McDevitt, Director for Political Education.

2:30 p.m. a reorganization of the ladies' auxiliary, Richmond Local.

Again I digress to illustrate a point that may be useful to some zone in settling its problems, carrying out its program that I shall be most frank is due to an unshakable conviction that it is good for each of you to know how often we can be mistaken; how often we can impugn progress, because we refuse to face issues; and, finally, how simple even the greatest problem can become if approached easily and creatively and objectively. The Richmond Local, and it just happens this place in Richmond at some time, each one of us have had to face some facet of this situation, this auxiliary had been torn by personal and basic differences. Some faction has this that all work was at a standstill. This situation has been aggravated by the death of two of its strongest members, Sister Randison and Sister MacNeil. The impartiality in its judgment, not involved in its personalities, only in restoration of a local to its former eminent usefulness.

Went to individual joint meetings which were held as a result, on the afternoon of the merger. As you know, there were two auxiliaries in Richmond. One of the Pullman Division and one of the Train Car Division. A real working group representing the leaders of both groups came together, ready and willing to forget the past and to look only to the future with its mind made up to do the job. These two groups have kept their word, and in my individual report from which I am about to speak, you will see that the Richmond Local is now completely unified and going ahead.

Any report of this conference would be incomplete without the mention of the splendid cooperation of the International, of its officers, both of the Brotherhood, Sister Wilson and Sister Tucker; of the lavish hospitality of the auxiliary and the Brotherhood of the Richmond Division and of the loyalty and ready response of the members of the auxiliary of the zone itself. It was a truly educational and genuine pleasure.

It is my practice to attach as part of the zone report the verbatim statements of the Chairman of the Local within a zone for the record, because each one often highlights of central activity some experience that could be important to all. I have asked the privilege of giving brief excerpts of each one to you.

Washington, D. C., June 25, 1956, Sister Elizabeth Craig was elected President of the Ladies' Auxiliary. Sister Evelyn Mayer and Mrs. Charlotte Blake as First and Second Vice-President, respectively, and Sister Blank, Secretary-Treasurer. Mrs. Rachel Hiding, Recording Secretary; Mrs. Jennie Johns, Correspondence, and Mrs. Jones, Reporter on the Banquet, which was tendered in honor of Sister Rosina Tucker, at University. At this gala dinner there were outstanding speakers, the President of Howard University, Brother A. Philip Randolph, and our own Sister Halena Wilson. Sister Craig reports from that reception, there being $1,003.00.

Jacksonville, Florida, has an inspiring report. May I say here that all of our locals are rendering wonderful service to the cause of freedom everywhere by their cooperation, finance and activities, but it has been during the past two years that our locals in the South have dramatically shown where the real struggle for human rights and democracy is for the next decade. It is in the South that a new and creative approach for that struggle has electrified the world. There is no question in that unvowing good-will in that direction and started by Gandhi and expounded by Brother Randolph, and it is good for us to stay and participate individually and organizationally to aid and abet this program.

Jacksonville, Florida, opens its report with its financial contribution to the Montgomery, Alabama, Improvement Association. It is represented in the drive for the National Association for the Advancement of Colored People. They have cooperated fully in every effort of local and international, and we have individual remarks to us of those that visited us. Sister Elizabeth Austin says, "There is much that could be said of the five women in the Jacksonville Auxiliary who are ready and willing to do whatever is required of them. We are growing stronger each month and are planning bigger and better ladies' auxiliaries."

May I ask any of the members of the Jacksonville Auxiliary, will you please stand with Sister Austin.

(Whereupon, the Ladies of the Jacksonville Auxiliary stood.)

Atlanta, Georgia, Sister Gertrude Ross has civic cooperation in her auxiliary program also. Not only have they contributed to Brother Nixon and annually to the Community Chest, the Boys' Club, the N.A.A.C.P., the Y.W.C.A. and Y.M.C.A. and Heart and Cancer funds, but they made a project seeing that every member of the Ladies' Auxiliary is a working member of it and N.A.A.C.P., and once a month they send volunteers to work on whatever current project is requesting service. This is an excellent plan and we should take the opportunity to talk with Sister Ross about this and see if we can include it in all of our locals during the next three years.

Sister Ross, please stand so that we may be able to see you.

(Whereupon, Sister Ross stood.)

And please expect us to be talking to you as the opportunity presents itself during this convention about the excellent plan that you and your ladies have worked out.

The Baltimore Local has no delegate with us in this convention, though I am privileged to act as their proxy, but their lack of representation in nowise tokens a lack of interest. Their dues are paid. Their convention and special taxes are current, yet they have been plagued by illness and death among their officers as well as their members. Sister McHoffen, their former President, is completely paralyzed, and just as they were beginning to function again under the leadership of Mrs. Magnolia Park, formerly their Vice-President, now their President, and Sister Edith Peters, Secretary-Treasurer, Sister Parks' daughter died and Sister Peters was hospitalized for quite some time for major surgery. They tell me, however, and I quote, "We are looking forward to an excellent three-year period and we promise by the next convention to be able to send delegates."

Now, let us all say a prayer to those devoted women and ask God's choicest position for those ladies.

(Whereupon, a prayer was given silently.)

Boston, Massachusetts, a new leadership has come also to our Boston Auxiliary in the person of Sister Nelson, formerly the organization Vice-President and Chairman of the Entertainment Committee, and Sister Kattie, now brilliantly functioning as Entertainment Chairman. Their local and international obligations have been met and they are current in their dues and taxes. They have contributed to the United Negro fund. There are no school scholarship funds. They have a delegate with us in this convention and I want her to stand, because it is the first time, I think, she has attended a convention.

Will you stand, Sister Nelson, the ladies will be able to see you?

(Whereupon, Sister Nelson stood.)

Sister Williams is a delegate, too. Will you stand?

(Whereupon, Sister Williams stood.)

The Ladies' Auxiliary, the joint sponsorship with the Brotherhood of the Sleeping Car Division, the ladies entertained at a candlelight service, a tea in honor of Brother A. Philip Randolph and Sister Halena Wilson, at the Service Club, one of Boston's finest centers, in addition, sponsored a monthly get-together to maintain interest of their new expanding membership. As I said, we have met the delegates. Sister Nelson and its official delegate, Sister Williams.

Jersey City, New Jersey. The Jersey City Local under the leadership of Sister Boone has been a gifted hostess entertaining Sister Rosina Tucker, Sister Wilson, our International President of the Ladies' Auxiliary, Brother A. Philip Randolph and his party. For each of these public joint-meetings of the Brotherhood of the Sleeping Car Porters of Jersey City were held. The Local has met both at the national and delegate level and both represented nationally and locally at the Ladies' Auxiliary at every activity at which the Auxiliary has had. They have contributed $35.00 to the education, $35.00 to a special tax, $43.00 as of June, 1956, convention tax. Sister Boone and her membership are to be congratulated and will all members from the Jersey City Local please stand.

(Whereupon, all Jersey City delegates stood.)

New York, three locals progressing in the sovereign State of New York.

Albany, New York. Within the last year a complete reorganization has been effected after four years of inactivity, under the leadership of Sister Marie Barrington and Sister Ralston, Secretary-Treasurer, total assessments are being met and they have found a plan for continued expansion.

Buffalo, New York. Through Sister Margaret Avery, President, and Sister G. Thompson, Secretary-Treasurer, I'm told their financial obligations have been met and they are to be represented at this convention.

New York City, New York. Here new officers have been elected and installed with Sister Grace Rembert, President, and Sister Alice Stephens, First Vice-President, and Sister Massey, Vice-President, and Sister Sara Harper, Secretary-Treasurer. There has never been a better year, characterized as it was by a monthly schedule, that not only meant money in the treasury, but became a means of participation in and participation of a membership at large, so ideas of their technique can be learned from their program of 1953, a typical year.

February, Negro History Program, and social night of games and May was a variety of entertainment.

From these programs, $133.25 was realized. Add to that $221.36 of 1954, which was $455.96 of 1955, and we have a total of $810.00. Their dues and taxes are current and this local has been one of the most generous in its contributions in its projects of the Ladies' Auxiliary and the causes so vital to the community's life. It was in the New York City's Local that a splendid illustration of the kind of followup education program that makes a conference zone on national truly meaningful was initiated. Sister Rembert and the auxiliary, with the aid of H. E. Jones, Secretary, Vice-President of the New York Division, drew up the brochure, key to the goal for the working men and women." It was a basis for a series of discussions in the meetings of the auxiliary following the conference in Richmond.

Now, will the delegation from the New York City Local stand and be presented to this body.

Sister Craig, here is the delegate and I think this is her first visit.

(Whereupon, the delegate stood.)

Nashville, North Carolina. Through Sister Ruth Morrison, Recording Secretary, I'm told that the Nashville Ladies' Auxiliary is making great progress. One of their most noteworthy projects is a distribution of food baskets to the needy and for this they have received city-wide recognition. Five new members have been added to the roster. This year their assessments are paid in full and they never contact me without renewing their pledge of cooperation, financial and civic. Sister Erline McQueen and all the Sisters from that provision please stand.

(Whereupon, all of the delegates stood.)

Charlotte, North Carolina. I call your attention to the revenues and the conference report to the Charlotte Auxiliary in relation to the Charlotte Symphonette. As an illustration of a Local in action, in addition, this group of women have cooperated fully with the zone and the International, and they really are a livewire bunch down there and they have their representative here today. I just can't think of her name, but will you please stand from the Charlotte, North Carolina, Division.

(Whereupon, the Charlotte, North Carolina, delegate stood.)

Philadelphia, Pennsylvania. Through Sister Collins and Sister Ida B. Patterson, the President and Recorder of the Philie Auxiliary, respectively, we learned of the wealth of activity that has characterized that program since last we met. Of particular interest has been their skit under the direction of Sister Simpson, which has as their function the preparation of background material to present at the monthly meeting. That first series dealt with the History of the Labor Movement.

At the first meeting the discussion followed by a question and answer period, as was on history and personalities of the American Federation of Labor.

At the next meeting the committee of Industrial Organization.

At the third meeting, the concluding part of this subject, Labor's Amalgamation and What It Can Mean.

Philadelphia was host at a ceremonial dinner for Brother A. Philip Randolph, the International President, and a lawn party for the community at large was given at the palatial home of the President of the Local, Sister Collins. The Ladies' Auxiliary of Philadelphia has discharged its duties to the zone and to the International faithfully and promptly. They have done a splendid job. Sister Collins is with us today and will all of the ladies from Philedalphia please stand.

(Whereupon, the Philadelphia, Pennsylvania, delegates stood.)

At this point I ask you in the name

of the Eastern Zone to bow your head in silent prayer as I call in fond remembrance the names of those members who have departed this life since last we met:

Jacksonville, Florida, Sister Adeline Fisk; Sister Elmira Elliott, Boston, Massachusetts; Sister Oglesbey, one of the oldest members there; and, Richmond, Virginia, Sister Santise and Sister Lee.

May their souls and all the souls of the faithful departed through Your mercy rest in peace.

And in conclusion may I pledge anew my personal devotion to this great organization of which I am privileged to be an officer and a member, and may offer to every single one of you, to my leader, Sister Wilson, to my associates and fellow officers, to you my fellow members, my loyalty, my cöoperation and my best efforts and finally that I express again my heartfelt thanks to the leadership and the members of the zone for the splendid work you have done and for the brilliance of your plans for the future.

I thank you.

President Wilson: The International Supervisor of the Eastern Zone, what is the pleasure of this convention?

Sister Collins: Sister Collins of Philadelphia; I motion that the splendid report coming from Sister Lassiter, the Eastern Zone Supervisor, be received.

Sister Estelle Blankes: Sister Estelle Blankes from Pittsburgh seconds the motion.

President Wilson: You have heard the motion. Is there any discussion,

Sister Blanks: I would like to ask for information. I understand the two auxiliaries in Richmond had united.

Sister Lassiter: Yes.

Sister Collins: I didn't finish my motion before somebody seconded it. I want you to know, I thought it was a little correction on the part of Philadelphia. Didn't they carry no financial report on it at all?

Sister Lassiter: Sister Collins, this report I read was sent to me from Chicago. I sent out three letters begging the auxiliaries to send me their reports and a letter came to me from Sister Wilson's office saying that the report from Philadelphia had been sent to Sister Wilson's office and when they sent it back to me just before I left, I hurriedly incorporated this in my report, coming from Sister Wilson's office, this report I just read.

Sister Tucker: Madam Chairman, since the report hasn't been properly set forth by Sister Lassiter that Philadelphia will get full credit for all of its money when I make my report and I think it will satisfy them.

Sister Lassiter: I'm sorry, because if that report reached me I would have been happy to receive it.

A Delegate: How about Tampa's report?

Sister Dailey: Mae Dailey, St. Louis. While Sister Lassiter is looking it up, may I call your attention to the fact that the Zone Supervisor don't have any financial reports. They are sent, as you know, to the International Secretary-Treasurer's office and anytime you might hear just a bit of mention in a zone report, it is out of the goodness of the heart of the President that some of the members they sent that along. You can never get a financial statement from your International Supervisor.

We have planned a bus ride for your enjoyment Thursday morning at 9:00 o'clock. Buses are to meet from this very address, Y.W.C.A., and it is imperative to know how many will go. It is a tour of about one hour's ride to Grant's Farm here and it is one hour's ride back, and the tour will last two hours, and one hour back. You will be back around noon or 1:00 o'clock and we should certainly like to have you—how many will go so we have enough space for you, to secure enough buses? I don't know at this moment how to determine the number. Will you stand or raise your hand so I can count? No admission to you at all. We couldn't bring it in during session, so it is free of cost. We can secure eighty tickets.

(Whereupon, there is a count of hands raised.)

President Wilson: Let's finish the motion.

Sister Lassiter: I knew I would be challenged in the convention about the report, so I attached every report, so I attached them so I say truthfully I didn't receive it. I attached all of the reports.

Sister Johnson: I'm sorry, I mailed it. It was sent.

Sister Lassiter: Well, I don't know, Sister Johnson, I will see if it is here in any of my belongings.

President Wilson: You have heard the motion that this very fine report be accepted. What is the pleasure of the convention? All in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: All those opposed.

(No response.)

President Wilson: Carried.

Sister Blanks: One more thing, since eighty tickets are allotted, I would like to offer the suggestion that the members supporting the convention be given the first preference. They are fighting for us, but not supporting us if you only have eighty tickets.

President Wilson: Sister Blanks, we are guests and we don't tell our hostesses who to—

Sister Blanks: The visiting people not supporting will be the ones to get first preference, consideration, and then the people who are not—

President Wilson: The Chair understands your point and it is well taken, but after all, we are guests and we are governed by what our hostesses decide.

Sister Blanks: Is it planned that the delegates get first choice?

Sister Dailey: It is planned for your enjoyment. We wouldn't crowd in the bus space and leave you standing home here since you are guests. As far as eighty tickets go, I feel that would take care of all of our visitors. After this announcement is made we will have to telephone the bus company and let them know how many buses for Thursday morning at 9:00 o'clock.

President Wilson: How many do we have? Suppose we start here and count.

(Whereupon, the assembly going on the tour was counted.)

President Wilson: The convention will be in order. Seventy-six going on the bus ride.

Do you want adjournment in order to go on with this?

Sister Marshall: Evelyn Marshall of Montreal. I move it be adjourned.

Sister Johnson: Elizabeth Johnson, Jacksonville, Florida; I move the session be adjourned.

President Wilson: It has been moved and seconded this be adjourned until 1:00 o'clock.

Sister Dailey: I have several announcements. I'd like you to know the Ladies' Auxiliary has two courtesy rooms at the Midland Hotel. You are free to go there and eat and drink and it is free. I don't have the numbers, but it is at the Midland. We are passing out cigarettes and giving food and drinks. That is during the entire week, a courtesy room. 2935 Lawton Boulevard. The Midland Hotel. You might ask where the two courtesy rooms are. I don't know their numbers. Also we have set up for you a neighbor information library at the back. All pamphlets are free. You each might take one of the assortment and also we have the flowers for the memorial occasion tomorrow afternoon that has to be settled. We had a person around yesterday who wanted to secure your orders, but we ran out of time and she had to go away, but the flower you desire for the memorial service, you will be informed how you can purchase that. We would like for her to bring a single flower for each of you without having to run all over the city to find out. You may get your pamphlets at the back of the room on the table.

President Wilson: You heard the motion to adjourn. What is the pleasure of the convention?

A Delegate: No questions.

President Wilson: All in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

(Whereupon, the convention stood in adjournment until 1:00 o'clock p.m. of said September 11, 1956.)

TUESDAY AFTERNOON SESSION

September 12, 1956

After the opening song by the assembly, and a prayer, the proceedings continued as follows:

President Wilson: Sister Mae Dailey will now give the zone report for the Southwestern Zone.

Sister Dailey: International President, International Officers, International Executive Board, Presidents, Members of the various Auxiliaries and Visitors:

I am deeply grateful for your coming here to listen to the report of the Southwestern Zone. Our Zone, as you know, is a very limited one. We have merely six or seven auxiliaries, and we find that when these districts are small that when the layoffs come, or furloughs, and families have to be uprooted and moved from one place to another, it leaves the Southwestern Zone with very little to work with. However, I am always grateful to the few that remains faithful over the years in their participation in making the Southwestern Zone as full as it is.

This convention, as you have heard previous speakers say, we have not had the privilege of visiting our zone, for one main reason, the financial status of the International. Other than that, we have visited by other means and methods, sometimes we have a lot of visitors from the various zones come in, therefore, we have heard if not by direct method, by others, how the progress of their auxiliaries are.

So, today I greet you with a full sense of appreciation from the Southwestern Zone. The following letter was sent to the General Zone Parson, which is a train porters group, in an effort to get some information from their section, and I quote the letter:

"Mrs. Mary Lee Davis, President Ladies' Auxiliary BSCP, 2129 Corning Street, Parsons, Kansas.

"Dear Sister Davis: This comes in an effort to ascertain the present status of the Parsons Ladies' Auxiliary. The last information I received from there you were elected President. I have had no word of a change of officials, therefore, the following information is essential that it be sent to this office immediately for a report to be compiled for the convention by the Supervisor.

"Total number of names on membership roster, total number of financial members, total number of new members to join within the three year period (1953-1956), number of members deceased (1953-1956), number of members transferred (if any), number of members to reinstate. Please send the activities and achievements of the Auxiliary for the time in question, contributions to worthwhile organizations; educational and social phases; name of delegate elected to convention (if any); and any other information pertinent to a report for the convention.

"May I suggest you give the above matter your immediate attention. I should like to compile the report within the next day or so.

"I trust you are enjoying the best of health. With kindest regards to all, I remain, fraternally yours, Mae Dailey, Second International Vice-President."

This was sent to several auxiliaries which were inactive, because of the previous stated. That included the Parsons, Kansas, group, and the Little Rock, Arkansas, group. And I should like to announce one new auxiliary was organized in the Southwestern Zone by our International President, Sister Wilson, and you will have the information in her report.

The next letter was received from the Nashville, Tennessee, Ladies' Auxiliary, and it is as follows:

> "Mrs. Mae Dailey, 5186a Enright Ave., St. Louis, Missouri. Dear Mrs. Dailey:
>
> "I am in receipt of your letter and am sorry to say there is no Nashville Division Ladies' Auxiliary. I have tried to keep it active after having helped Mr. Roland reactivate it, but I am not able to do it on insurance basis, and the women just will not cooperate. I must say there are a few who want it and some of them cannot attend the meetings. Yet, most of them go wherever they want.
>
> "If, at any time, some woman will take it, I will help. The women whose husbands are working are the ones who will not attend or join.
>
> "My husband will retire in a few months. In fact, he will apply most likely next month. He has a heart condition.
>
> "The last report was for October, 1955, and taxes paid through June, 1955."

That ends the quote of the Nashville Division.

The New Orleans Division Ladies' Auxiliary, of which I am proud, is one of long standing in service, cooperation and loyalty to the International Auxiliary and the Southwest Zone. The very efficient President, Sister Lester, has served in this capacity for more than a decade. Many accomplishments and achievements have been gained in Trade Unionism under her regime. Sister Lester is directly responsible for the Ladies' Auxiliary having a specific program and participating in the Regional Zone Conferences. Her suggestion of same to Sister Wilson, who took it to Brother Randolph, and when materialized brought about an effective response to the women being able to get their program over to the Brotherhood for observation and encouragement from them to help build a bigger and better Ladies' Auxiliary.

The following report is submitted:

> "The New Orleans Ladies' Auxiliary is holding its own, not as much progress as we would like, however, over the three-year period we have had eight new members to join, three reinstated and nine dropped from our roll who have not paid dues in two years or more. This reduced our membership. We have lost some members because of furloughs of men and retirement.
>
> "The Auxiliary was very much pleased and benefited to have our International President, Sister Halena Wilson, to visit with us after the Regional Conference, held in Dallas, in April, 1955. A joint meeting was held with the Brotherhood, and Sister Wilson spoke to the men and urged them to support the Auxiliary. A meeting with the Sisters followed.
>
> "During the three-year period, we have kept up our financial obligations, making our reports regularly, paying quarterly tax and convention tax; scholarship fund, $25 per year. Our monthly meetings are held at the Brotherhood office and social meetings at members' homes.
>
> "Annual tea and waistline parties and many smaller affairs have been our money raising events. We also contributed $10 to the Montgomery boycott.
>
> "Sister Snype, who has been a very efficient Secretary-Treasurer for twelve years, resigned. Sister Angelina Davis was elected in her place and will also be a delegate at the convention.

"The New Orleans members pledged to do all that they can to help the officials build an Auxiliary, both numerically and financially.

"There are twenty-seven financial members on roll. No transfers; none deceased.

"The newly elected President of the Brotherhood, Reverend Davis, who has pledged his support to help build the Auxiliary, and we hope to bring the Auxiliary up to its rightful place in the very near future. It seems whenever there is a slump in the Brotherhood, it affects the Auxiliary, although our members keep financial obligations up, but will not come out to meetings.

"Sorry we don't have a more interesting report this time, but have hopes for the future."

This report is signed by Sister S. D. Lester, President.

It has been my pleasure through the years to receive the fullest cooperation from the New Orleans Division Ladies' Auxiliary. Please accept my sincere thanks for same. I wish you continued success in the Trade Union movement.

Memphis, Tennessee. The Memphis Division Ladies' Auxiliary's report to this convention is somewhat gratifying. It is one of the older Auxiliaries in the Southwest Zone. It has continued to remain intact and function properly through many difficulties. This fine group of women seem to redouble their determination to carry out the slogan of the Brotherhood, "A winner never quits, and a quitter never wins." Many obstacles that would encounter an organization of this kind meet the challenge of the courageous women with their hearts and minds set on making a bigger and better Ladies' Auxiliary.

A report from the Secretary-Treasurer is as follows:

"The most important thing was the visit paid us by our International President, Sister Halena Wilson, in May, 1955. It was very beneficial. While here, the Ladies' Auxiliary entertained her with a tea at the Lelia Walker Club, after which a few of the ladies went with Sister Wilson to the home of Brother and Sister T. H. Chatman and enjoyed delicious and refreshing cold drinks. We were also honored to have our own Brother T. D. McNeal with us in our regular Auxiliary meeting in March, 1955, at the home of Brother and Sister Bennie L. Watson. In the Spring of 1956, Brothers A. Philip Randolph and T. D. McNeal paid us a visit. A mass meeting was held at the Martins Temple C.M.E. Church. The Brotherhood and Auxiliary entertained these officials at Curries Night Club.

"The annual affairs that are planned and sponsored by the Auxiliary in an effort to build a treasury are as follows: Spring teas, outdoor carnival, fashion show, lawn parties, barbeque and an occasional get-together with the Brotherhood.

"In April, 1955, the Auxiliary sent a delegate to the Zone Conference in Dallas, Texas, which proved very inspirational and helpful to our meetings here.

"Our Secretary-Treasurer resigned, leaving an unexpired term to be filled. This gave us a big setback. This vacancy has been filled and we are looking forward to a bigger and better organization than before.

"There are nineteen names on the roster; eighteen are financial for the three-year period, and there were no transfers or deaths recorded.

"Before closing, I would like to mention that we were very unfortunate not to have our Zone Supervisor, Sister Mae Dailey, visit us during the past three years. Sister Dailey is so inspiring and helpful. She is just a lovely person. I do hope this report is suitable."

It is signed by the Secretary-Treasurer, Sister Mamie Taylor.

May I say that full cooperation is always received from this fine group of militant women.

The President, Sister Artie G. Nelson, is in attendance here as the delegate.

St. Louis, Missouri. The St. Louis Division Ladies' Auxiliary is one of the oldest in the Southwest Zone. Through the years this organization continues to maintain a rather unique position in holding its own. The roots of the principles in Trade Unionism, together with the principles of the Brotherhood, our parent organization, in its struggles and fight for economic justice has imbedded itself deeply in the hearts of a few devoted members. The St. Louis Ladies' Auxiliary has been well seasoned with many obstacles and struggles for its mere existence. Our problems are no different from those of any other organization of this kind and size. It is rather a difficult task to keep abreast with the fast changes of the Trade Union movement. Women in labor have met this challenge with a determination to fight for victory to the end.

The attendance of the Ladies' Auxiliary is not what it should be. Far too large a number of membership have become too complacent and express themselves that their husbands will continue to work and bring home good paychecks whether or not they take an active part in the Auxiliary, and the smallest of things irk them to the point of resigning their elective positions, going home or giving their services elsewhere, while the Auxiliary suffers. However, a faithful few manage somehow to pick new courage and determination to carry on the International Auxiliary's program and the basic rules of the labor movement. Knowing the potentialities of this district, as a charter member, it grieves me deeply and I am saddened greatly to see the few that are compelled to shoulder the full responsibility of the local.

After our return from the first Triennial Convention, in Los Angeles, in 1953, knowing that our city was selected to be hostess to the second Triennial Convention, we began thinking, planning and working in that direction.

Sister Eunice V. Hurt, President of the St. Louis Division, and Sister Mae Dailey, Zone Supervisor of the Southwest Zone, gave well rounded reports of the convention in Los Angeles, after which, the members expressed themselves as having been inspired to rededicate themselves to the cause of economic freedom.

The Supervisor, Sister Dailey, asked the President, Sister Hurt, to call a meeting of the Executive Board, so that an idea that she had conceived to celebrate the Auxiliary's twentieth anniversary may be discussed. This idea met with acceptance from the Board and Auxiliary, and plans began to take form and the ground work was laid to bring about the success of that great affair. This proved to be one of the most outstanding successes of any labor auxiliary in the city. Brother A. Philip Randolph, International President, BSCP, and our International Counselor, was invited to participate in this two-day celebration, a Labor educational mass meeting on Sunday afternoon climaxed with a banquet on Monday evening.

In April, 1955, Sister Wilson paid a visit to the St. Louis Auxiliary, while enroute to the Southwest Zone Conference. This dynamic personality always brings a wealth of information and inspiration to our group. Her two-day stay was a meeting of the Executive Board and Board and a joint meeting with the Brotherhood and Ladies' Auxiliary. This meeting was well attended, as it should have been, for members to get first-hand information from our International President, Sister Wilson. Sister Wilson was highly entertained after the Board meeting at the lovely home of Sister Hurt, at a dinner to entertain the Executive Board and other officials.

Sister Torian entertained with a breakfast at her palatial home the following morning, and Sister Dailey entertained the officials and Board members with a dinner party in honor of Sister Wilson on Saturday, before her departure with Sister Hurt for the conference and mass meeting on Sunday, in Dallas. Many courtesy gifts and flowers were extended Sister Wilson. Sister Wilson expressed herself as having a most enjoyable stay. She shared her visit, stopping in the lovely homes of Sister Torian and Dailey.

Sister Hurt, elected delegate to the Southwest Regional Conference, was high in her praise of the success of this conference on the educational and social phases of that conference.

May I state that Sister Hurt felt that the Board meeting that was held there so the members might see how your Executive Board in your local should be carried on, thought it was the highlight of the convention and brought that back to us. It can truly be said that the St. Louis Auxiliary has always enjoyed the closest cooperation from the Brotherhood.

A joint educational meeting was planned in June, 1955, for the Brotherhood and Ladies' Auxiliary, with the principal speakers of Brother McNeal and Sister Wilson to bring us up to date on the facts of pension, insurance, railroad retirement, and other things very vital to the knowledge of the members. Sister Dailey placed special stress on the Auxiliary's progress. It was closed with the Auxiliary serving delicious refreshments afterwards.

The Auxiliary meetings are held semi-monthly. The attendance is below average, and we are trying to bring up the membership. Several plans were brought about during the year to raise money to replenish the treasury. The meetings' financial reports to the International Secretary - Treasurer, Sister Tucker, is submitted by the very capable Secretary-Treasurer, at that time, Sister Ida Ruth Travis, who was elected to serve in this capacity for more than a decade. The local Secretary-Treasurer, Ida Ruth Travis, continued in this capacity until her successor was duly elected and installed.

The St. Louis Auxiliary continues to make sizable contributions to worthwhile institutions and is often called upon to share their inspiration and encouragement with those less fortunate.

In December, 1955, Sister Hurt tendered her resignation as President, due to impaired health. After much prevailing persuasion on the part of the Board membership and membership upon Sister Hart to take just a leave of absence and come back and serve her unexpired term, she stated the true findings of her physician, who had recommended complete quiet and rest and to give up all activities. So, reluctantly, her resignation was accepted. The First Vice-President, Sister Alice Wallace, stated she would not be able to serve as President due to illness in her family, hence, the Second Vice-President, Sister Virgie Willis, moved up to the Presidency.

Too much cannot be said about this brave person, Sister Willis, a quiet unassuming personality, who did her best and a very fine job for the Auxiliary during her reign. She did all within her power to make the Auxiliary go forward. She worked diligently, and the members expressed deep gratitude to her for having taken this great responsibility in view of the fact her health was not the best. She retired at the June, 1956, election and served until her successor was duly elected and installed in the person of our present President, Sister Thelma Trotter, who has served for years in many capacities, among them Corresponding Secretary and Vice-President. Sister Trotter was elected to serve as President of the St. Louis Auxiliary in June, 1956. Sister Trotter has given much devotion and good service to this organization. There are any number of others that I might name who have stuck with this organization during our hardships, whether they become few or many.

Time will not permit me to name them and I do hope you will pardon me for saying this. They have worked very fine for this convention and we have the present corps of women who have pledged their support to do a bigger and better job for the Ladies' Auxiliary.

Our First Vice-President, Sister Alice Loveless, and Second Vice-President, Virgie Willis, and Hortense Riley, Second Vice-President, and Julia Rowell, Correspondence Secretary, and Dad Bazell, Chaplain, and Ardella Bradley, Chairman, and other members of the Executive Board.

We continue to have new and reinstated members. Members do not always stay in when they come in, therefore, we have, quite often, the same person reinstating more times than one. We recorded two deceased members since the last convention. I should like to take this method to thank everyone for their fullest cooperation and to say, again, that the names are too numerous to mention of those who have helped make this Southwest Zone report today. We intend to maintain the high-fighting spirit and to make our Auxiliary a bigger and better organization. My heartfelt gratitude to you members of the Southwest Zone.

Fraternally submitted, Mae Dailey.

President Wilson: You have heard this very fine Zone report coming from the International Superintendent of the Southwest Zone. What is the pleasure of the convention?

Sister Terry White: I, Terry White, of Kansas City, move that most excellent report be received.

Sister Elizabeth Craig: I, Elizabeth Craig, of Washington, D. C., second the motion.

President Wilson: It has been moved and seconded that the report be accepted. You have heard the motion. Any discussion?

(No response.)

President Wilson: All those in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: All those opposed.

(No response.)

President Wilson: So ordered.

The Chair would like to ask to postpone the reading of these reports so that we have a speaker in the house, and she may come to you at this time. We are anxious to have all business out of the way when our International Counselor will be coming over. He just sent word he will be over just shortly, so we would like to be prepared for him when he comes.

We are to ask Sister Dailey if she will introduce the speaker since she is acquainted with her work in this city.

Sister Dailey: International President Wilson, other officials, I am very happy to present or introduce to the visitors and only present to the St. Louis Auxiliary, because the person of whom I speak is a very, very close friend to the Brotherhood and its Auxiliary over a period of years. She has done much in the City of St. Louis toward labor, and there is much more I could say about this person, however, I shall just let you know the capacity in which she is serving now. She is Educational Director of the International Garment Workers; International Union.

Mrs. Doris Wheeler of St. Louis.

(Applause)

Mrs. Wheeler: President Wilson, and Mrs. Dailey, Officers and Sisters of the Ladies' Auxiliary of the Brotherhood of Sleeping Car Porters, it's been a long time since I have addressed one of your meetings and it's good to be home again. I felt well acquainted with the St. Louis people some years ago, but it seems I sort of dropped away and haven't been with you a long time.

Sunday, when I sat at that wonderful meeting and I looked at the platform and there were so many people up there, I knew I thought, "Goodness, it has been a while since I fought the fight with those people," and now it's been a long time. Now, I find Brother Randolph is coming. I can't compete with him. I can't do it. Once in Dallas, I was there at a convention, and they wanted me to substitute for Brother Randolph, and I couldn't. I just can't. I spoke. He introduced me and hurried up and left, and I was glad, because I can't measure up with that wonderful man. When he comes in, I will wind up in a hurry, so you can have the pleasure of hearing that wonderful man. If I am only part way, I will say, "Let's hear Brother Randolph."

I am interested in speaking on the woman's role in organized labor. I wondered what I could say. To me it is the same battle we have as the men have trying to get better wages and economic conditions. I thought the problem over, and I thought, "Women are here to stay." Have you noticed that? And they are going to go right on. And women are getting to be a larger and larger part of the working force all of the time. In ten years it crept up from twenty-seven per cent to thirty-two per cent. So, in five hundred twenty million, out of sixty-five million were women. It is not quite a third, but almost a third of the women working force, and out of that, sixty-five per cent were married.

Not only are you part of the Auxiliary, but you are working in your own right, but members of them are members of labor unions, so they have a dual role to play, that of a wife of a working man who should belong to a union, and don't tell me they are housewives. I suspect housewives should have a union, and don't tell me domestic workers, because if ever there was somebody that needed a union, it is domestic workers.

Men say it is a bad situation, women ought not to have to work out in order to support the home. It is true. It brings many difficult social problems with it, but doesn't it take two to support a home? Hasn't it always taken two to support a home? Women did the work inside the home before though. It took the two members of the family working as hard to support the economics of the home. Women did the canning, furniture making, the soap making; they did it at home, but all of that has gone outside of the home, so to continue to help the man support his family, women must work outside of the home.

That brings problems with it. One of the problems is, they don't belong to unions like men do, and they say women can't be organized. The union I work for, Women's Garment Workers, gave way to that, they have been organized. The phone girls, they walked the lines and won against the giant company. And I belong to the Teachers Union, and my profession can be organized. Women can be organized. It is a little harder work, I think. Mrs. Wilson agrees with me. The pattern of the struggle of union for better economic conditions has been set. Folks that have gone before us have set pretty much the pattern for better working conditions, wages and hours.

I am not going to talk about that, I'd like to talk with you about a special phase of this problem of women. What kind of people are women? Are they the same kind of people as men? Are women just like men? You know, I grew up in the struggle of women for suffrage, and do you remember the time when women didn't have the rights as men? Women, as a whole group of women, were going through many of the same problems that Negroes are going through, struggling to get the right to vote, to own property, struggling to have the rights over their children and civil liberties. Women didn't have these rights, and I grew up in this period when women were quite different. They weren't people. Men were people, but women weren't people. I had it brought to my mind very sharply. I was cleaning out many things that belonged to my family, of the people that passed on. I found a card belonging to my grandmother admitting her to the Bellefontaine Cemetery, and this is from 1916, and that is well into my lifetime, and one of the rules was, no automobile could be driven in the cemetery at more than five miles an hour, and women and children drivers were not allowed. At this breathtaking, this reckless speed of five miles an hour, a woman was not fit to be a driver. You couldn't trust a woman to drive a car. And it struck me hard what a change had come over us. And I was driven over here by a woman whose husband didn't drive a car, and she did all of the driving. The role was reversed.

In the struggle we wanted to be like men. If we got the vote, we could be like men and take jobs like men. So, when I was growing up, we kind of suppressed femininity, we tended to say, "We are going to be manlike and wear mannish clothes and have the same rights in the man's world and be like men and try to reject the role as far as women are concerned, but I was very interested the other day in reading an article by Margaret Mead, who is an anthropologist, and she said this: "Actually, the most conspicuous difference in the human race is between the sexes. Difference of sex is more conspicuous and a great deal more important than the difference in race and height. Race and height are extremely conspicuous, but they don't make a bit of difference. Difference in sex makes the only completely crucial difference in our future."

If there isn't a difference in sex, the race don't go on. Your skin is darker than mine. My skin is not like the sister in Japan, but it doesn't make any difference. There is a difference between us and men. We are much more alike than us and men. It is rather important that difference. It means this one all-important difference. Women bear children. We are the cradle, the future of the human race. Men do not bear children and because women bear children, women rear children, they are the ones who bring them up, and in their hands lies the future of the human race, because physical health of children and mental health lies in the hands of women, and the attitudes of the human race lie in the family, and particularly the mother.

I am very conscious I grew up from that nature. When I was a little child, mother taught me, by indirection, respect for all people and the value of differences in all people. She taught me this way: My stories were stories of Indian legends, Greek mythology and stories of Negro children in India. I grew up thinking it was going to be a great privilege meeting someone from Japan. I had German stories, because my grandparents came from Germany, and I thought it was a special privilege to meet somebody from Europe or a different race or very interesting if I met someone who spoke a different language. And this was an attitude at home and school. It got built at home and school and on top of that, but I got that attitude at home and with women lie the attitudes of the children of the future.

Margaret Mead said also, "Women also paid more attention to human beings than men have." This has been the important thing. Women pay attention to human beings. Men are doing the tremendous important thing, and we have to do the same thing they do in fighting for better wages, hours and working conditions, but we got this additional thing that is our particular quality as women, to pay attention to human beings. Often the labor union is the strongest channel of experience and education labor unions and the labor auxiliaries are the strongest channel women have to their community. It is the biggest grownup experience they have, the biggest new thing that happens in this life. Often in the Garment Workers' Union we bring education to our members they get nowhere else in the community. They share in the experience there they wouldn't have without a labor union. I'm sure in your auxiliary you find the same situation, you bring an education to your members they wouldn't get any place else in the community. So, we have this powerful force with which to deal. Our concern is with the human race and how does that reflect itself. In using contrast, there are things women are more concerned about than men and women have the responsibility to fight for the maternity leave, to have the proper time to have and mother her child. It is not just time to have the child, but she must have time to mother the child and she must see there is pay for part of the time to have the child and be a mother and not lose her seniority rights when she takes the time out to be a mother. It is important to all of us she stop and be a mother to that baby. We need to concern ourselves about special leave for family sickness. This is one of the nightmares of the working woman. Her baby is sick and she can't take time off to take care of it because she will lose her job rights. Sick leave concerns us a great deal and women know the importance of having a paid vacation, and sometimes I have a hard time trying to convince the men that it is important to the togetherness, it is hard to convince them vacations are important, vacations with pay, and special interest in health insurance and life insurance, and above all, equal pay for equal work.

This is a quadruple concern for Negro work. One of my Negro friends in the Garment Workers says, "I have three counts against me: I am a woman and I'm a Negro and I'm a married woman." This doesn't have to concern us right now. There is no concern against married women now, because they need people, but comes the depression, comes the going down, they are going to talk once again about married women working. So, we have a concern. When we build a union, we have particular concern about the particular instance in the union. Credit unions are formed to help us save, because they are reinforcements for the family. Our health center is the produest boast in the Garment Workers' Union, and we wish everyone had one, and that is the health center, and they pay an additional one per cent over their pay that is set aside by the employer; and that is managed by the union and the employers and we have a beautiful health center with all of the diagnostic equipment you can have, and all of the equipment for treatment that is necessary, and our members go there for complete health care, without charge, and this is one of the things I think women can understand particularly, and which they should always be working through the channel of their Auxiliary, and that is improved health care for the people within their membership; and recreational centers are vastly important to those of us who know the development of human beings are important.

Over and above the pay people get, living is important. It is just not enough to get better pay and go to work and come home and read the newspaper and go to sleep in order to have strength enough to go to work the next morning in order to come home and read the newspaper and eat and sleep in order to go to work. That isn't living! There is no other reason to working than to live, but some people work so hard it seems they have to live to work. So, we are hind-sight. So, we must get in sight again the only reason for working is to live better. It is right we give to the world because we are taking, but there is no reason to do someone else's share. It is all right, I am willing to work for the sick and old and the babies and do my share for them, but I am not willing to work the share for the folks not willing to put a share in the world.

So, women need to pay attention to the other hours outside of the eight working hours; the time to live and grow and learn to have fun. So, in our union, the Garment Workers' Union, let me run down some of the things we do to live. I am pleased you opened with a song. We think that is important to have music. I was pleased on Sunday you sang between the programs. Ken Phillips works with us, too, and he is a fine choral director here in the city, and we sing when we can and we dance when we can. We have dramatic groups and even charm classes, for we know a woman to develop poise, she has to understand she looks well to carry her head high, that she knows her hair is becoming and she has the best manners and can carry herself with pride before all people. And one of our beloved activities is explorer tours. Maybe it is to a television studio or Post Office or to a bakery to see how they make bread; maybe it is to Jefferson City or Meramac Caverns or to Salem, Illinois, to see Lincoln Village and lots of places to explore. Our Garment Workers say, "Gosh, this is fun, but I wouldn't have done it alone, because when the Union does it I will come, because there will be friends and people I know, and I will do it again if the Union does it."

They will do things they always wanted to do, but wouldn't have done it alone. We do things for people at both ends of the age. We have a children's dancing class. This is good, because many of the women that work wouldn't come, but if they can bring the youngsters, they come and they are proud at the dancing class. Lately we have done something I deemed very important, which I certainly recommend for your consideration, and you can go across country. We have formed a club for our retired workers.

Recently, we were able to work out a pension, so our retired workers get $50 a month in addition to their social security. This has been worked out also by a two per cent contribution from the employer. We thought to ourselves it is rather a cold thing. We are handing you your pension check, we will be sending them to you every month. Goodbye. We thought maybe they are lonely. They worked all of the time, and maybe it is a sharp feeling not to go every day among people, to feel you are cut off from all contact. There must be a feeling they belong to this group of people. They are welcome to the meetings and have excellent care at the medical center, and we have a club that meets once a month and they come to it and the monthly meeting becomes mostly a party. They have a party, go on the boat, have an explorers' trip. Both men and women belong to this group.

If you haven't thought about this, let me recommend it as an all important problem, which is more and more important as people grow older and live longer, not only live longer lives, but enjoy their old age. A golden age club is a good thing to do. However, the thing dearest to my heart, as far as the union goes, is the activity and education for better human relations.

Better human relations in many directions. First of all, in the family, so there will be a better understanding of children while they are growing up; so mothers will be better qualified to raise children; and the whole family structure and relationship and what they do to each other in the family; and the families as a base of whole human beings; better understanding of neighbors, and fellow workers. Workers don't understand each other at all. Cliques antagonize some and gossip, and we have learned a lot about these things. We have learned about relationships of one group to another.

Our life doesn't end with a community and our country, better relations and international political affairs and international relations. We do this by having teachers in psychology and lectures and moving pictures about the brotherhoods and other countries, lectures on world affairs. One of the best ways to get an understanding on other world affairs is to invite students from other countries, and to have panel members, one from Germany and Iran and Brazil and India, coming and telling how people in their country do and what it costs to live and you can compare it with costs of dollars in the United States and yens for Japan. You have to say how many hours do you have to work to buy a pair of shoes. How many weeks does a man have to work to buy a suit in your country, and we understand each other and it is fascinating to do.

So, if you haven't such a program at your Auxiliary meetings, I would suggest it to you, recommend it to you. If you have a college or Y or international house, they may help you find people from other countries to come and discuss with you how they live in their country. It may not be any deep discussion of world politics, but that isn't what you want. It is the feeling how do folks like us live. So, I would recommend it to you for an Auxiliary program. No harm if it spills over to a Brotherhood meeting. Might be a good idea to have a Brotherhood joint program.

I said before, you have to go out of your homes to do the work that was formerly done in your homes. We also have to go out of our homes to protect our homes. Formerly, they did the education and attended to the spiritual education in the homes and created the clothes and things they needed in the homes and took care of the health of the family. Such as it was, they drew herbs and did one thing or another to take care of them, but since we have informed service to help us. We have to reach out to this complicated world. So, women have to pay attention to a lot of things in order to protect their homes.

I think the thing has to be done through the community. We have to watch child labor in the agriculture areas. It still exists on the farms and ranches where little children were working, but shouldn't be.

We have to watch the Food and Drug Act. They used to protect us before. It is very unfinanced and hasn't the money it needs and they push it back and push it back and all kinds of things are being put in our food, and they haven't the money to check it and police it, and we are eating all kinds of things, but they haven't got the money. A pamphlet is put out by the Meat Cutters Union telling how bad some of the poultry is on the market. The chicken looking so nice on the butcher counter, and it is diseased, and only the butchers know it. So, women have to fight about the poultry that is finding its way to the markets. That would be a good topic for a discussion, and you can get a pamphlet on it from the Meat Cutters Union. They are appealing to you to write to Congress to protect us from the real dangers in this diseased poultry.

The problem of more day nurseries and teenage community centers, that is another.

Teamsters Union, Local 688, did an excellent job in rising to rat control and the city was sitting on the subject and they stirred it up through their union meeting, and we got it, and there is protection.

There is relief for the helpless. I hope no condition is so bad as in St. Louis. The aged are living on $65 a month. Here our City Hospital has to keep the poor older sick people away beyond the time they should be well enough to go out, because there is no place they can live on $65 a month and also eat. I hope none of you have a condition as shameful as we have in our state. And I leave it to those of us who live in Missouri to keep working on a scandalous condition. I'm sure no state has adequate relief. I'm sure all of us need better. I'm sure our basic problems are those of housing and education. Congress passed a very inadequate housing bill this year, only for 35,000 family units in the United States. It isn't scratching the surface of the situation. The housing block defeated it in the House of Representatives. It looks like a better chance if it is defeated by the voters. It is a problem to all of us. This is a great period in which we are seeing a revolution in education, because we are seeing a whole new civil rights revolution.

The day the Supreme Court passed the resolution, I wanted to grab somebody and dance in the street, and it took some time to find somebody so jubilant. As soon as I got over the joy of the thing I had been working for was passed, I realized how hard a time we are going to have to pull up our schools and keep them going, on which speakers on Sunday mentioned, it may be during this time when we are making adjustments people will neglect education and we will have to be more vigilant than ever to see that education is marching on.

I belong to the Teachers' Union and I can't help get in a commercial, but the teachers are the most underpaid of the kind for the work they are doing. They can't take that pay for the hours and years it took them. Teachers are leaving in droves and if they like teaching, they have to get two jobs to support their families, on Saturday and Sunday. So, we should seek better pay for teachers. All of this needs to be done through political action; and you are going to have Mr. Conners here on political action. And these things are the kind of things that will be discussed.

By the way, are you registered, and all of the people in your Auxiliary registered? It all sums up what we said so often sighingly: Women's work is never done. It looks like we moved out of the home into the community. It is women's work to develop this race to its highest potential. It is specialized, because we are special women, who bear and rear its race. The women and wife of the working man, the labor union and labor union auxiliary are the most effective for that kind of work. I worked in this movement over twenty-two years, and I don't know anything else that parallels it for effectiveness.

A. Philip Randolph said Sunday, "To accomplish anything you must have power; to have power you must organize." It has been said, you know, never underestimate the power of a woman. And I say beware of us when we are organized.

President Wilson: We want to thank Sister Wheeler for this very fine constructive, informative talk.

I think all of us have a great deal of ideas and discussions and I must say, you really talk our language. We are delighted to have had you and I am sure you highlighted our convention.

At this time, while we are waiting for our International Counselor, we shall proceed with our reports.

You will notice on your program that the Fourth International Vice-President is scheduled to speak. That happens to be Sister Ardella Nutall, who has been ill over a period of years. So that her zone might be represented, I asked those zones to send their reports to me. Most of these reports came to me while I was in the hospital. I have not had time to edit them or do much with them, so if you will permit me, I will give them to you as I have them here.

Pardon me. I see I am passing up one of our very important Supervisors. This is Sister Caviness, the Third International Vice-President, who will make the report of her zone at this time.

Excuse me. Brother Randolph, President of the Brotherhood of Sleeping Car Porters, is here.

Sisters, it is with a great deal of pride that I present to you at this time, our International Counselor, who is making his usual visit to our Ladies' Auxiliary Convention. I'm sure we are all anxious to hear Brother Randolph; he brings us so much inspiration and information. And we are extremely happy at this time to present to you our International Counselor, Brother Randolph, who is busy, so we don't want to take up his time. He rushed through to have this time available.

Brother Randolph.

Brother Randolph: Madam President, International Officers and Delegates to the Second Triennial Convention of the Ladies' Auxiliary:

I need not tell you that I am delighted to have the privilege of appearing at this convention and to say a few words on this occasion.

I have brought a message also from the International Executive Board to your Board and to the convention, and I suppose I ought to read the message. I give it to the Secretary to read.

I might say that the problems that have existed that occasioned the discussion of ways and means of attempting to rebuild the Ladies' Auxiliary or to build it into a stronger national organization no doubt will continue to exist, unless we take the necessary action to develop a strong militant organization, national program, for the purpose of building membership.

I want to say to the convention that the International Executive Board of the Brotherhood is definitely friendly to the Ladies' Auxiliary. The men have their own ideas about organization. They feel that the best test of an organization is increase in membership, and consequently, if membership is not increasing where members are available, in their opinion, the methods employed are not effective, and the criticism is that the Ladies' Auxiliary is not growing and expanding.

The International Executive Board felt that the Brotherhood itself has a responsibility in helping to develop the Auxiliary since the Auxiliary is a creature of the Brotherhood, and to that end, a method was devised and a plan worked out, not to dissolve the Auxiliary, but, if possible, to give it new strength and vitality.

But, of course, the plan was not of the type that some of you felt it should be and you are certainly entitled to your opinion about any plan that may be devised. You are justified in giving your criticisms of the plan. The Board, however, felt you were too drastic in your criticisms in the Convention of the Brotherhood when the plan was not before the convention for consideration. In other words, the members did not know what the plan was. They didn't know what you really were talking about, and so the Board felt that your attack was unjustified. I want to tell it to you just like it is.

The Board felt it was not wholly fundamental and not wholly within the facts and it is prejudiced and bitter. Well, we felt that should not be the attitude that should be manifested between the two organizations, the Brotherhood and the Auxiliary. These two organizations ought to always work in harmony, and even if there is disagreement, there should never be bitterness, because in the last analysis we never see a subject clearly in the state of anger, and, of course, the Sisters were mad. They were mad at the International Executive Board, mad at everybody in it.

Well, I know how you feel about this matter, and, of course, I did take the position that the re-organization plan should not be put into effect at this time, and they charge now you have routed me, that I backed up, I retreated, and that you have got me on the run; and, of course, I suppose you have, I don't know, but we changed the situation, we withdrew the resolution for the re-organization of the Ladies' Auxiliary. It was agreed that you go ahead as you always do in your convention and do as you please. Of course, the Brotherhood still feels that something ought to be done in the interest of building the membership, and I have attempted to prevail upon them to help develop the membership at the grass roots. I hope that the officers will cooperate with them.

Brother White here is one of the members of the International Executive Board. He felt he needed to come over here to give me some protection. I have him here to serve as a part of the committee.

Now I think that the Sisters were too drastic, and I think you owe the International Executive Board an apology. Of course, I am not too technical about the matter, but there is that feeling among the men you were too drastic and too severe and too bitter in your attacks. So, I hope that you will give some consideration to the cause. I have got to try to get them to work with you in order that we may all together build an Auxiliary on sound tribune and principles.

Now, the Secretary may read this statement. I think I ought to have you read it, because they would say that I came over here and didn't even read the statement.

Sister Tucker: "The Board met in a special session on the afternoon of Monday, September 10, 1956, for the purpose of giving the officers of the Ladies' Auxiliary an opportunity to state their position on a resolution that had been submitted to the International Executive Board by the International President Randolph for its re-organization. The organization's presentation was made by International President Halena Wilson and International Secretary-Treasurer Rosina Tucker, and was acquiesced in by several other members of the International Executive Board of the Ladies' Auxiliary who were present.

"The Board met again in special session on Tuesday, September 11, 1956, and after due deliberation of the subject matter of this resolution, having in mind the statements made by Sister Rosina Tucker before the convention, on September 10th, and the statements made by International President Wilson and International Secretary-Treasurer Tucker before the International Executive Board, on the same day, wishes to definitely make it known that it resents the statements made by these officers as not being in conformity with the facts and what appeared to the members of the Board as an unmerited attack of the International Executive Board and its members, intimating that the Board had ulterior motives in its attempt to provide a feasible plan for the re-organization of the Ladies' Auxiliary throughout the nation.

"Some of the statements made were, to a large extent, irresponsible, half truths and contrary to the recognized principle of trade union ethics that should exist between the leaders of this organization. The Board feels that the unwarranted and drastic attack made on the Board and its motives by Sister Tucker, at the convention, where she was called upon to speak as a matter of courtesy, was totally unjustified, and an attempt to create the impression that the resolution, as attempted by the International Executive Board, was intended to destroy the Ladies' Auxiliary rather than build it up. The words and phrases as contained in this resolution certainly belie any such intention.

"However, International President Randolph asks that the resolution be withdrawn from the Board at this time, pointing out that the officers and the members of the Ladies' Auxiliary, and the officers and delegates attending this second triennial convention should be adequately informed about this situation. After considerable discussion and analysis of this matter by the Board members and the explanation given by International President Randolph, it was directed that the proposed re-organization of the Ladies' Auxiliary, as set forth in the resolution, should be put into effect at such time as the Board deems it advisable.

"There is a unanimous resentment on the part of the Board of this rather drastic attack on its motives in this matter, and in complying with the request of the International President that this resolution be withdrawn for the time being, it directed the International President to advise the officers and delegates of the convention of the Ladies' Auxiliary of the Board's feeling in this matter, and further directed that in view of the rather distorted explanation of the intention of the Board in passing this resolution as conveyed to the convention by Sister Tucker and to the Board by Sister Wilson and Sister Tucker, they be informed that the position taken by these officers of the Ladies' Auxiliary was out of harmony with trade union loyalty as it should exist among the officers of this organization. It was further directed that an analysis of this situation be made to the convention of the Brotherhood of Sleeping Car Porters, and that the question of re-organization of the Ladies' Auxiliary should be adequately re-examined with the view of the Brotherhood of the Sleeping Car Porters assuming the responsibility of developing a Ladies' Auxiliary Organization to commensurate with the size of the Brotherhood of Sleeping Car Porters."

President Wilson: You have heard this communication coming from the International Executive Board. What action should we take on this communication, members?

Sister Crawford: Sister Crawford, Colorado. I move that the communication coming from the International Executive Board of the Brotherhood of Sleeping Car Porters be accepted and turned over to the International Executive Board of the Ladies' Auxiliary for further action.

Sister Collins: I second the motion.

President Wilson: It has been moved and seconded that this communication coming from the International Executive Board of the Brotherhood of Sleeping Car Porters be accepted and turned over to the International Executive Board for further consideration.

You have heard the motion. Any discussion?

Sister Tucker: I'd like to say, friends, that I have worked with these men in this organization ever since they commenced and this is the first time they have ever had the occasion to say that I didn't work with them, and, of course, my attitude and the words I uttered were by no means derogatory and by no means disrespectful, but it did seem to us that there was something happening that we knew nothing about. Other people knew about it, knew more about it than we did. It was known over the country, so to speak, and we felt—I felt, speaking for myself, that in order to get this thing where it should be, we had to be strong and militant about it and I felt Brother Randolph, if I hadn't been militant, these men wouldn't have taken that position you finally got them to take.

So far as apologizing, as I said, there was no harm meant. I have respected these men fully, respected them in face of many, many things, and while I don't feel that my intention was to hurt anybody, I do feel that, since you feel that way, I'm willing to apologize right here, and I'm sorry if I said anything to make the Board feel that I was disrespectful. I gladly do that, because this organization has been my heart, and I haven't allowed anything to come between me and this organization, and these women know it, but I did feel the occasion demanded this thing brought where it could be seen in the light.

President Wilson: Brother Randolph has requested he make some additional remarks so he might leave. So, at this time we will hear from him.

Brother Randolph: Madam President and Officers, I just want to say finally that I hope that we may be able to devise a program here which will be effective in the organization of the women and I think you can do that.

I believe that you ought to work out a program which will make it unnecessary for the International Executive Board to think further about re-organization. I think that is your responsibility. Of course, the Brotherhood of Sleeping Car Porters has a responsibility to work with you, but I am certain that you need more aggressive activity in dealing with the members of the porters' families in order that they may be convinced of the necessity and the value of their becoming members of the Auxiliary.

I want to also congratulate you upon your long history. I believe you have made a very basic contribution to the Brotherhood of Sleeping Car Porters.

I know Sister Tucker and I know Sister Wilson. I know many of these Sisters, Sister Lassiter of New York; Sister Fant of New Jersey, and our good Sister from Denver. I know all of you practically. I've seen you working in this movement for many, many years. Sister Dillon and Sister Chevalier, and a large number of the Sisters I see from time to time working with a view to building the Ladies' Auxiliary.

Now, it is my hope that you will really build a membership, so that the International Executive Board will not have any basis of criticism so far as your steady growth and expansion are concerned, and it is my belief that you can do that, and I hope that you will.

I have the highest affection for this organization. I have the highest devotion and loyalty to you. You mean a lot to the Brotherhood, and you mean a lot to the labor movement. You have helped this movement in the dark days when we were struggling, and you can still help it.

I know Sister Tucker, in Washington, when she went into the office and defied the superintendent. The same thing was done by Sister Lassiter in New York City, and, so, we have women here of great strength, great inner strength and great dedication to the cause.

Organization is the most difficult process mankind has ever undertaken. That is, the organization of human beings into a common movement to achieve a common objective; and the reason for that is we have ideas. All of us are exposed to environment and the environment has its impact upon you and creates ideas and thoughts in your minds, and all of us are different in that respect, but we have to develop a common denominator. We have to develop a common denominator in terms of means and terms of action. We have the same objective, but this matter of developing a common denominator of action is not easy.

The Brotherhood of Sleeping Car Porters has a responsibility to the labor movement as such, because we are not only concerned about porters, but about the families of porters. We couldn't be any benefit to porters or families of the porters unless we are part of the broad movement of the country, and we must be concerned about the objectives of the movement, the movement of all wage earners, regardless of race, color, origin or ancestry. That is our philosophy. We started with this philosophy. We must never abandon it.

I think the Auxiliary has a tremendous role to play in the field of registration, getting the families out to register in order that they may be able to vote. Labor has a stake in the ballot. We may make gains on the economical front and lose on the political front. They have all sorts of information that are inimical to labor. This Auxiliary can do a very effective job in the field of registration. It is my hope that this registration business should be worked out on the block by block basis, and house by house basis, where doorbells are rung and families are brought together, and you sit down and talk with them about what registration and voting means to them in terms of bread and freedom and peace. This is a tremendous and big program.

Then, too, we have the health and welfare plan, and the Sisters here ought to know what the health and welfare plan means to them in terms of medical care, in terms of surgical opportunities, in terms of hospitalization. This plan is not too simple. As a matter of fact, I think that in this convention you ought to go on record as setting up a committee in all of the Auxiliaries which will give study to the health and welfare plan recently adopted by the Brotherhood of Sleeping Car Porters, and also the Retirement Act and Unemployment Insurance Act. These are forms of legislation that deal with your day to day life. In other words, you ought to know what you are entitled to in the event the husband should die. You ought to know what you are entitled to as a residual amount of money available to you, and also in terms of pension. You ought to know what your husband should get in pension and what you are entitled to get in pension. This is in the law, and we have plenty of material available for you to study. This will have to be studied. You can't read it overnight and explain it to anyone. As a matter of fact, it is complex and intricate, and you ought to have a committee and they ought to be able to come and get information about these things that are concerned with their homes and their standards of living. And then, too, you ought to know how to figure out the wages of the husband and you get that out of the agreement.

The wages, you know, are based upon the rules, and many of them are a little difficult. Sister Louise knows how to figure it out, from Houston, and a number of them around here can learn, and especially this Health and Welfare Plan and the Railroad Retirement Act and the Unemployment Insurance Act.

Committees should be set up for that. I will see to it you get the material, and every Auxiliary get this material and you study that material, and whenever a Sister is in need of knowledge about this matter, let her come to that committee, and that committee ought to be prepared to give her that knowledge. I get letters from all over the country, weekly, wanting to know, "What am I entitled to since my husband just died? Am I entitled to a pension? How much? Am I entitled to a lump sum of money, if so how can I get it?" All of this knowledge is available to you and you ought to have a committee to dig up this information and make it available to the members, and I think it would be attractive to the Sisters.

And you have the problem about your financial structures, about which we have discussed. I hope you give it some consideration. I am not prepared to tell you what to do about this at this time, but I hope to work closer with you in the future than I have done in the past. I am, perhaps, responsible to some extent, perhaps, for some of the problems that have arisen, because I have not given enough time and attention to the Ladies' Auxiliary.

Sister Tucker wrote me some time ago and wanted to have a chat, and I have been going hither and yon and didn't have an opportunity to talk to Sister Tucker, but I certainly had the desire to do so. Sister Tucker and Sister Wilson and all of the officials and Sisters, there is nothing in this world I wouldn't do for you, absolutely nothing.

So, I want to thank you for this opportunity to say these words to you. Thank you very much. Success in your convention and you run it as you see fit.

(Applause)

Sister Craig: Sister Tucker and myself stood on unreadiness for the motion and apology, and I stood on unreadiness because I felt, Madam President, and Officers and Members of this body, I felt that if the Executive Board felt that the attack from our International Officers had been a bit drastic, I thought we'd want to go on record as asking a letter of apology be written from this group to our International Board, because we did want to live and our officers were very anxious about it and I realize, as a member of this body, in high appreciation for our superior officers, I felt that the attack was rather drastic, and I felt that it could have been a little bit avoided inasmuch that a letter had been written from this Board to the International Board, but when we are over-anxious about some things, we go just beyond what people would look upon as being reasonable, and, ladies, in view of the fact, in perfect love with this department and the men, I feel that if the Executive Board felt offended, I feel this body should go on record as sending a letter of apology from our Officers to the International Executive Board, and that is my motion.

Sister Tucker: That was my unreadiness, and I would like to make an amendment to the original motion that letter be sent to it.

Sister Crawford: That was the thing I thought the Executive Board would do to keep from having to go through a whole lot of voting and take up time. I think we have an Executive Board we can depend on to do what is right, and that is what—

Sister Craig: Elizabeth Craig, Washington, D. C. My unreadiness is a statement was brought to the body and I'm not in favor of it being carried to the Executive Board. I feel that the Auxiliary here can settle the matter without taking it to the Executive Board.

President Wilson: You mean the convention?

Sister Craig: Yes, the apology, that will have to be another motion. I'm speaking on the first motion.

President Wilson: The first motion was what?

Sister Crawford: Madam President, I feel like Sister Craig, the action should be taken up at this convention, since it was brought to us, and I'd like to make an amendment to that motion, that instead of turning it over to the Executive Board for consideration that it be given here at this convention meeting and the letter be sent from this convention.

Sister Tucker: That was my amendment to the motion.

Sister Crawford: You can't make another motion. You have to make an amendment.

President Wilson: The amendment is that this convention—the letter of apology to the International Executive Board will be drafted by this convention rather than by the International

Executive Board of the Ladies' Auxiliary.

Was there a second to that?

Sister Crawford: I'd like to say if that was Sister Craig's amendment, I'd like to second her amendment, but I didn't know she made an amendment, I thought she just suggested it.

President Wilson: You have heard the amendment.

Sister Fant: I second the motion, and if somebody wants to put an amendment, that is up to her if she wants to add to the motion, she may, and I will add to the motion without all of the motions and seconds.

President Wilson: It is in order.

All those in favor of the amendment will say "Aye".

(Whereupon, the entire assembly said "Aye".)

All those opposed.

(No response.)

President Wilson: And it is so ordered.

We have to appoint a committee to draft this letter.

Sister Lee, of Chicago; Sister Sara Allen, of Indianapolis; Sister Velmer King, of Montreal, Canada. We will have those three to draft this letter of apology coming from this convention.

Sister Caviness will now make her report.

(Whereupon, Sister Caviness read a written report, which was submitted to the International Office.)

President Wilson: This ends the reading of the report of the Texas Zone. What is the pleasure of the convention?

Sister Gunter: I, Gay B. Gunter, Detroit, move the report coming from Sister Caviness be accepted as read.

Sister Moon: Viola Moon; I second the motion.

President Wilson: It has been moved and seconded that the report coming from the Supervisor of the Texas Zone be accepted.

You have heard the motion. Any discussion?

(No response.)

President Wilson: All in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

Those opposed.

(No response.)

President Wilson: So ordered.

At this time we will have the report from the Pacific Coast Zone.

(Whereupon, President Wilson read a written report of the Pacific Zone, which was submitted to the International Office.)

President Wilson: You have heard the reading of the report from the Pacific Zone. What is the pleasure of the convention?

Sister Meyers: Madam Chairman, Louise Meyers, Dallas, Texas. I make the motion that the report coming from the Pacific Coast Zone be accepted as read.

Sister McQueen: I second the motion.

President Wilson: You have heard the motion. Any discussion?

Sister Collins: Am I in order? I didn't hear on that report that we gave two benefit dinners, one in honor of Sister Halena Wilson and one for Brother Randolph, Brother Randolph's Day, $210 for the first and $180 for the second.

President Wilson: That was not included in this report.

All in favor of accepting this report say "Aye".

(Whereupon, the entire assembly said "Aye".)

Those opposed.

(No response.)

President Wilson: So ordered.

At this time we have the report of the visits made by Sister Tucker in the Eastern Zone.

(Whereupon, Sister Tucker read a written report, which was submitted to the International Office.)

President Wilson: The International Secretary and President were to make those visits throughout the organizational setup.

Any questions?

Sister Crawford: I move the report coming from the International Secretary-Treasurer be accepted.

Sister Lee: I second the motion.

President Wilson: Any other questions?

(No response.)

President Wilson: All those in favor saye "Aye".

(Whereupon, the entire assembly said "Aye".)

Those opposed.

(No response.)

President Wilson: It is so ordered.

Do you want to continue with the reports or come back in the morning? The rules of order say we will be dismissed or we will adjourn these sessions at four o'clock. So, it is going on five o'clock, so what is the pleasure of the convention, do you want to continue or do you want to resume these in the morning?

Sister Harris: I make a motion to adjourn. Estelle Harris from Pittsburgh.

A Delegate: I second the motion.

President Wilson: It has been moved and seconded that this session of the convention will adjourn until ten o'clock in the morning.

You have heard the motion. Any discussion?

Sister Collins: We consider our time, and we got an awful lot of work to do and you don't have time to do it. We have an awful lot of work to do. I know you want to go someplace, but you have an awful lot of work and only one day.

President Wilson: Sister Collins' point is really well taken. We do have a lot of work. We are more than a half-day in our schedule, so I think it was well she reminded the convention of that, but still you have the privilege of voting your pleasure on this motion. It has been moved and seconded that this session would adjourn or recess until ten o'clock in the morning.

What is your pleasure?

Sister Fant: I would like to make one brief observation. I understand there is a lot of committee work to be done and I think we might adjourn this session, but I think that it would be advisable for the committees to get on the job, because tomorrow our work is supposed to end in the early afternoon. Am I right?

President Wilson: Well, as soon as we can get to it.

Sister Nelson: I move the meeting be started at nine o'clock in the morning instead of ten. Ten it always starts at eleven.

President Wilson: I understand we can only make that change, I suppose, through a motion of the convention, since the rules and order of business have been adopted that was set for ten o'clock. So, we would have to get the—

Sister Tucker: May I ask that you consider—I don't know whether your rules will cover it or not, would you consider our going through our program and coming here Thursday. You take the members of the Board, they are paid to stay here through Friday, I think it is, and I think that other delegates are prepared to stay until the dance, and it does seem to me we could utilize the time. We only meet once every three years and I think we should take the time to take care of our affairs. I wish you would consider that.

Sister Marshall: I think we won't have too many interferences tomorrow we may make better time.

President Wilson: This hall has been engaged for a limited time and you have to take that into consideration also. Do you want to continue for at least another hour, or adjourn?

Sister Lee: Minnie Lee of Chicago. I suggest we adjourn and go into our committee work. Those of us on committees could get committee work done and the only thing we would have to do is bring the reports in the morning and that would expedite any time.

President Wilson: No speeches, nothing to interfere with us tomorrow. The motion is we adjourn this session and we convene in the morning at ten o'clock.

You have heard the motion. What is the pleasure of the convention?

All in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

All opposed.

(No response.)

President Wilson: So ordered.

(Whereupon, the convention stood in recess until Wednesday, September 12, 1956, at 10:00 o'clock a.m.)

WEDNESDAY MORNING SESSION

September 13, 1956

The convention af the Ladies' Auxiliary of the Brotherhood of Sleeping Car Porters was opened by a song by the assembly, led by Sister Rosina Tucker.

President Wilson: The convention will be in order. We will ask you to stand and join in the singing of "America".

(Whereupon, the entire assembly stood in song.)

Sister Davis: Our Father, which art in heaven, hallowed be Thy name, Thy kingdom come, Thy will be done on earth as it is in heaven, give us this day our daily bread, and forgive us our trespasses as we forgive those who trespass against us, and lead us not into temptation, but deliver us from evil, for Thine is the kingdom and the power and the glory forever. Amen.

President Wilson: Is the Credential Committee ready to report; this committee's work is far from being completed. Is the Chairman of the Credential Committee in the house? Where is Sister Trotter? Sister Trotter will you get your Credential Committee together?

If it meets with the approval of the convention, we will continue with our zone reports until such time as the Credential Committee is ready to make its final report.

This is the report from the Pittsburgh-Detroit Zone. Unfortunately, as you know, I am the Supervisor of this zone, but these reports came to me while I was in the hospital and I have not had time to do much with them, so I am going to skip and I am going to leave out as much as I can, so it won't be too lengthy, because some of them are quite lengthy.

I am wondering if these auxiliaries at this time would mind if these reports be withheld and be put in proper order in the convention proceedings. It is rather complicated and there has got to be a lot of editing and a lot of that aren't actually as important to this section as they should be, and I would like to have an opportunity to condense them and prepare them for our proceedings. And inasmuch as I wasn't able to do that, owing to illness, I wouldn't want to take up the time of the convention, important as they are to the individual auxiliaries themselves, I feel they ought to be condensed more before attempting to read them, because there would be a lot of stumbling around and taking your time and my own auxiliary is included in that, so we are asking if it is all right if these reports be held up and put in better form for the convention proceedings, if it meets with your approval.

Sister Collins: Philadelphia, Sister Collins. I motion Sister Wilson will be exempt from reading her report and it be continued in the minutes of the convention.

Sister Austin: Elizabeth Austin, Jacksonville; I second that motion.

President Wilson: It has been moved and seconded by the convention that the reports from the Pittsburgh-Detroit Zone and the middle western zones be withheld and put into condensed form for the convention proceedings.

You have heard the motion, is there any discussion?

(No response.)

President Wilson: We'd like to hear from the auxiliaries involved if there is any unreadiness on their part this is the time to make them in readiness.

All in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

Those opposed.

(No response.)

President Wilson: So ordered.

We will hear from the International Secretary-Treasurer who will make her report to the convention.

Sister Tucker: Madam Chairman and members of the convention. I thought that maybe you would be interested in a detailed report coming from each auxiliary. I think that that will interest you and possibly encourage you and others to do better work. I have to sit at this table, because I cannot hold this big book in my hands, and if, for some reason, you want to take notes, I think for your particular auxiliary you may come to me later. It will be very difficult for you to take notes while I am reading.

(Whereupon, Sister Tucker read a written report, which was submitted to the International Office.)

President Wilson: You have heard this report coming from the International Treasurer. What is the pleasure of the convention?

Sister Johnson: Ella Johnson, Tampa, Florida. I move that the Secretary-Treasurer's report be adopted.

Sister Boone: Viola Moon, Jersey City. I second the motion.

President Wilson: It has been moved and seconded that the report coming from the International Secretary-Treasurer be accepted.

You have heard the motion, is there any question?

(No response.)

President Wilson: All in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: So ordered.

If there were any unreadiness we are ready to hear it.

Sister Lee: Minnie A. Lee of Chicago. I had no unreadiness other than I wondered if the report had been audited. We usually accept financial reports for audit and then we have the report of the auditors and I was wondering if it has been audited.

President Wilson: Then the motion should have included that the report be accepted—

Sister Lee: Should have been in when we accepted the report for audit.

President Wilson: Should you make another motion? What would you do, want to make a motion to that effect?

Sister Lee: I think to be correct, we brought a statement to the effect that we'd run the convention on Robert's Rules of Order and that is Robert's Rules of Order. If the person who made the motion would withdraw her motion, we will make another motion.

Sister Johnson: I will withdraw the motion and make a motion the report coming from Sister Tucker be accepted for audit.

Sister Moon: Viola Moon, Jersey City; I second the motion.

President Wilson: It has been moved and seconded that the report coming from the International Secretary-Treasurer be accepted for audit. Any discussion?

(No response.)

President Wilson: All in favor say "Aye".

(Whereupon, the entire assembly said "Aye":)

President Wilson: Those opposed. (No response.)

President Wilson: It is so ordered.

At this time we have a report from the Committee of Constitution and Resolutions.

Will the Committee on Resolutions please come, if you feel we ought to assemble, the Committee should assemble here. The Committee is Dorothy Valley, Anna Hughes, Gertrude Ross, Louise Meyers and Sarah Allen, Elizabeth Austin, Mae Dailey, Fannie Caviness, Rosina Tucker, Nora Fant, Ella Johnson, Florence Ball-Jones, Rosie Taylor, Ella McBride, Velmer King, Terry E. White, Halena Wilson, and Carrie Lee McWatt.

During the afternoon, at the beginning of the afternoon session, we are going to ask all delegates to come forward and other members toward the back, because we want the delegates separated so we know who you are, because you are going to have some work to do and we want the delegates and Sisters to be separated.

President Wilson: Members, this is the real business of your convention, so we want your fullest discussion and cooperation in helping to get the type and kind of business program out of this convention that you want to be governed by. We only do that to the extent that you pay attention, that you participate in the discussion and that you give this committee the advantage of your thinking and your experience, so I ask you to kindly be attentive and help us to get this Resolution Committee work over as soon as possible.

Sister King: Your Committee met yesterday afternoon and we offered the following resolutions for approval of this convention:

Resolution 1: Be it resolved that each local Secretary-Treasurer will prepare a list at the end of each year of all members dropped from the roster during the year, so as to keep a complete membership record.

The Committee moved concurrent on this resolution.

President Wilson: If there are any supplies that you want, we will be glad to give them to you. As in years past, the International President is trying to help you in your collaboration by supplying, not trying to influence your vote in any way, but we feel when we bring in a resolution you want to understand it thoroughly, so you can vote intelligently on this resolution. This resolution was presented for the purpose of checking our membership. As you know, your membership fluctuates from month to month and year to year, and as a result of this scholarship, this convention contest, we learned a great deal about your membership, and we feel now we ought to have a check somewhere down the line, and we are requesting that each local Secretary-Treasurer, at the end of a year, report her exact membership standing. If you have lost members through the year, they have dropped out, become unfinancial, they have died or resigned, whatever happened to your membership during that year, we want to have a complete check and a statement to that effect so that our records can tally. At present they have not done so and there is quite a great deal of confusion when we begin to check on this convention contest award. This resolution was presented for that purpose.

Now, since we have explained it to you, that you will know what you have moved concurrence.

The committee has moved that the recommendation of concurrence be accepted.

You have heard the motion, what is the pleasure of the convention?

Sister Lyons: I, Rosann Lyons, make a motion this motion be adopted.

Sister Gunter: I, Gay B. Gunter, from Detroit, second the motion.

President Wilson: It has been moved and seconded that the Committee's recommendation of concurrence be adopted. You have heard the motion. Any discussion?

(No response.)

President Wilson: All in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: So ordered.

Sister King: Resolution 2.

Resolution 2: Political education. Whereas political information has become a necessary part of workers' education, and whereas politics are playing an important role in the workers' family to the extent of passing on oppressive legislation, such as the Taft-Hartley Act and right to work laws; be it resolved, that political education become a regular part of the International Auxiliary's regular program and that a Political Education Committee be formed for the purpose of keeping the local membership instructed concerning the resolution as protects the welfare of the working class; be it further resolved these committees be informed of the necessity of getting the voters to the poll with a view of getting them to register so they will be in a position to add power and strength to the working class with a ballot.

The Committee moves concurrence.

President Wilson: Do you need an explanation? Is there a second? The Chair shouldn't have to—

Sister Bryant: Sister Bryant of Oakland, I second the motion.

President Wilson: It has been moved and seconded that the Committee's recommendation of concurrence in its resolution be approved.

You have heard the motion. Is there any discussion?

(No response.)

President Wilson: All in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: So ordered.

Sister King: Resolution 3.

Resolution 3: Manifesto, signed by United States Congressmen. Whereas one hundred or more Congressmen of the United States Federal Government have signed a manifesto with the express intention of defining a ruling handed down by the highest tribunal of the country, and have gone on record as attempting to undermine the authority of it and to arouse the people against the Supreme Court of the United States; and whereas this defiance of law and order is intended to withhold justice and equal citizenship to a group of fellow American citizens; and whereas the one hundred or more Congressmen have openly violated their oath of office, which is to uphold the Constitution of the United States, be it resolved at this convention of the International Ladies' Auxiliary order to condemn the Congressmen so involved as being unfit to occupy the offices to which they were elected; and be it resolved that the public records of these Congressmen be carefully scrutinized with a view of opposing each, should either aspire to a national or local office at any time in the future.

The Committee moved concurrence.

Sister Taylor: I, Annie Mae Taylor,

second the motion.

President Wilson: It has been moved and seconded that the Committee's recommendation of concurrence be approved.

You have heard the motion. Is there any discussion?

All in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: So ordered.

Sister King: Resolution 4.

Resolution 4: Economic reprisals. Be it resolved that the International Auxiliary order go on record as deploring the evil conspiracy in the forms of economic reprisals being employed by such states as Mississippi, Alabama, South Carolina, and other southern states, in an attempt to break down the resistance of their colored citizens through loss of jobs, confiscation of property, refusal to supply products and other necessities to colored communities, thereby seriously threatening the living and health standards of these groups whose only offense is to challenge the right of a White American to suppress and deny the rights of a colored American; be it further resolved that the International Auxiliary order join any bonafide national movement, should one arise, whose purpose is to get economic or legal relief to this group of American citizens.

The Committee moved to concurrence.

Sister Collins: I second the motion.

President Wilson: It has been moved and seconded that the Committee's recommendation of concurrence be approved.

You have heard the motion. Any discussion?

Perhaps we might explain that a little bit for those of you who may not know what is being done in the various localities to break down the morale and resistance of the citizens in the cities. Many of them are refusing—they feel if they can reduce these colored people to the level almost of starvation, that they can break their resistance. Many of the produce houses in the South are refusing to supply the neighborhood stores; many are refusing to extend loans or give loans on their property and they are all taking their property from them and they are using all sorts of reprisals so they can break down the spirit and the morale of the people in these localities; and we want to go on record as deploring that and to lend any assistance that we can in the future to help these people in their fight.

You have heard the resolution and the motion of concurrence. Is there any discussion?

(No response.)

President Wilson: All in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: So ordered.

Sister King: Resolution 5.

Resolution 5: United States Supreme Court. Be it resolved that the International Auxiliary order commend the United States Supreme Court on its desegregation of public schools and also its subsequent actions regarding individuals who are being deprived under the Desegregation Ruling; be it further resolved that while the Auxiliary order approves of much that has been done, that the Auxiliary insists that provisions be attached to the Court's; further, that the recalcitrant states no longer ignore with impunity any laws they dislike, while fighting with no holds barred to keep laws of their own making to withhold the God-given rights of others.

The Committee moved to concurrence.

Sister Crawford: Sister Crawford, Denver, Colorado; I second the motion.

Do they not have to make a motion from the floor and then be seconded?

President Wilson: No, the Committee makes its own recommendations or a motion that it be adopted and the second comes from the floor.

It has been moved and seconded that the Committee's recommendation of concurrence be approved.

You have heard the motion. Is there any discussion?

(No response.)

President Wilson: And so ordered.

Sister King: Resolution 6.

Resolution 6: Amendment. Whereas, it is becoming increasingly difficult to get the older members to accept office in the various local auxiliaries, be it resolved that Article No. 6, Constitution and General Rules, be amended to read that members remaining continually financial and regular in attendance and who support the auxiliary program for a period of one year, be eligible to hold an elective office in the local auxiliary; be it further resolved that such a member shall also be eligible to be elected convention delegate.

Committee moved to concurrence.

Sister Gunter: I, Gay B. Gunter, of Detroit, second this amendment to be adopted.

President Wilson: May I say I think most of us are aware of the rule in our Constitution that had required that a member would remain financial for a period of two years, and we have come to feel that that is working hardship on many of the local auxiliaries, so we want to reduce that so as to give you the benefit of this new ruling.

It has been moved and seconded that the Committee's recommendation of concurrence be approved.

You have heard the motion. Is there any discussion?

(No response.)

President Wilson: All those in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: So carried.

Sister King: Resolution 7.

Resolution 7. Amendment. Whereas, the dues of the Brotherhood, Ladies' Auxiliary, is far less than amounts required in similar organizations. Be it resolved that Article 14 of the Constitution and General Rules be amended by striking out said "dues payable the next calendar month;" be it resolved that beginning November 1, 1956, that a member's dues begin with the month that the membership application is accepted.

The Committee moved to concurrence.

President Wilson: Must I ask for a second to this Committee motion?

Sister Stewart: Sister Stewart of Minnesota, seconds the motion.

President Wilson The explanations to this amendment is that under our present rule a member doesn't begin paying dues until the following month after she has been accepted as a member, and we feel inasmuch as the dues are very small, that the members should begin paying the month, the dues for the month she is accepted. She pays her joining fee and her first month at the same time.

Any other explanations that you would like? If not, you have heard the motion for concurrence in this amendment.

What is the pleasure of the convention? All those in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: So ordered.

Sister King: Resolution 8.

Resolution 8: Amendment. Whereas, there is no practical use for a porteress in the local auxiliaries; be it resolved that Article 14, General Rules, be amended by dissolving this office. Said dissolution to become effective immediately following the adjournment of the Second Triennial Convention.

The Committee moved non-concurrence.

Sister Harris: Sister Harris of Pittsburgh seconds the motion.

President Wilson: The motion is not to concur in that resolution. You have heard the motion. Any discussion?

(No response.)

President Wilson: All in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed. (No response.)

President Wilson: So carried.

Sister King: Resolution 9.

Resolution 9: Whereas, the duties of a local Secretary-Treasurer included keeping records of the several moneys collected monthly, such as per capita tax, convention tax, special monthly tax, joining fee, et cetera, and whereas, these reports often require much detailed work, such as the corrections of records, which are often in dispute and which calls for many hours of checking individual records covering a period of two or more years, be it resolved that the record of each member whose dues is reported for a current month, be checked during that month; be it further resolved that in instances where the report comes in too late for correction in a given month, that the record of said members be checked for discrepancies and where discrepancies are found, that same be returned to the local Secretary-Treasurer within a period of two weeks. This will prevent the return of a long list of names extending over a period of several months; be it further resolved so as to start off with a clean slate, that all records more than a year in arrears shall start anew, beginning January 1, 1957, at which time the above mentioned provisions will go into effect; and be it further resolved that this arrangement shall not apply to members less than a year in arrears, said member's records will be allowed to stand for purpose of reinstatement or the payment of back dues. This resolution was submitted by the Chicago Ladies' Auxiliary.

Our Committee moved to non-concurrence.

Sister Lyon: Sister Lyon, from Fort Worth; I second the motion.

President Wilson: It has been moved and seconded that this resolution be non-concurred in. You have heard the motion. Is there any discussion?

(No response.)

President Wilson: All those in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: So ordered.

Sister King: Resolution 10.

Resolution 10: Special Education Committee. Whereas, the program of the International Ladies' Auxiliary is too varied for one person to properly handle in its many phases, be it resolved that an Education Committee consisting of international or local members and consisting of seven members in the United States and three in Canada, be selected at the end of this convention by the International Executive Board for the purpose of working under the supervision of the International President. The function of said Committee to do the research work required of the various subjects to be covered. Said research to be sent to the International President for distribution to the Ladies' Auxiliary; be it further resolved that each local auxiliary shall be instructed to appoint an educational chairman, who will cooperate with the International President of this special committee to the extent of getting the information for her auxiliary members; be it further resolved that the International President be authorized to remove any member from this committee for failure to function properly, the local auxiliary being required to manage its own committee program.

The Committee moved to concurrence.

Sister McQueen: I, Erline McQueen, second the motion.

President Wilson: The Chair would like to explain this resolution. You know it is very important as we have learned in this convention, since we have been here, that we develop a worthwhile program. If we want to build our auxiliary, we want to have interest in the meetings. We'd like to give our members something once they appear at the meeting, and it is felt that for one person to prepare all of the work, it is impossible, so the resolution is to the effect that the convention will authorize an appointment of seven members in the United States and three in Canada to help the International President in research work. We have had various subjects that we will want to present to the local auxiliary and we want someone to go to the libraries, who will send to the various agencies for material that they can compile and get that information to the International President, who can put it in form and send it to the local educational committees, so that they can get it to their membership. That is the meaning of that resolution.

You have heard the motion of concurrence, and all those in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: It is so ordered.

A Delegate: May I ask who submitted that resolution?

President Wilson: The International Executive Board.

Sister King: Resolution 11.

Resolution 11: This comes from the Boston, Massachusetts, Auxiliary and reads as follows:

"Whereas, many of the potential members of the Boston Ladies' Auxiliary were first members of the Pullman-Porters Benefit Association, and whereas this insurance organization can no longer offer a threat to our organization, and whereas it expressed desire for membership of the P.P.B.A. members into the Ladies'

Auxiliary must be denied, even though we are suffering a small membership as a result, be it therefore resolved that this matter which has been recommended by the Boston Ladies' Auxiliary be brought to the attention of the International Convention of the Brotherhood and Ladies' Auxiliary for their consideration."

I think that the Committee thought that the delegates needed an explanation.

President Wilson: No action was taken on this resolution because we thought an explanation would be better than to make a recommendation. I think we are all aware of the P.P.B. of A. outfit. For years that organization was used as a threat to the Brotherhood of Sleeping Car Porters, and in the first place it is an insurance — it is not a labor union, and there is no earthly reason why, in the first place, for an insurance company to set up a ladies' auxiliary, but it was done as a threat to our own group, trying to take members from our organization into that, so a ruling was made that no lady belonging to the P.P.B. of A. could affiliate with our organization, and any lady who formerly belonged to the P.P.B. of A., if she renounced her membership or decided to resign from that organization, we will be happy to have her. The only difference is she cannot belong to both. If she wants to renounce her membership with the P.P.B. of A., we'd be certainly most happy to have her join our organization, where she rightfully belongs.

So, to the Boston Auxiliary, if you have ladies there who have dropped their membership and affiliation in this P.P.B. of A. and they want to affiliate with the Boston Ladies' Auxiliary, extend them a membership. They will be welcome. They can't belong to both, however.

Sister King: Resolution 12.

Resolution 12: Be it resolved that this convention go on record as authorizing the appointment of the International President a permanent Organizing Committee for the purpose of bringing in a slate of officers for the approval of this convention.

The Committee moved to concurrence.

Sister Collins: Sister Collins, I will second the motion.

President Wilson: For the information of the convention, this is in the form of a re-organization. We feel that it is now time that you authorize an appointment of another committee to bring you in a slate for your approval, and we would like for you to authorize the International President to appoint a committee here and now so that a slate of officers can be presented to this convention for its consideration during the coming election. That is the meaning of that resolution.

Sister Dailey: May I ask a question, Madam Chairman, if it will be permissible for the delegates, our presidents from various locals, to submit names of persons in their auxiliaries or their district for consideration of this committee?

President Wilson: Well, I suppose so. We haven't given any thought to that, but certainly we wouldn't object to it, I'm sure. Of course, the convention will have the opportunity when the slate is presented to make nominations from the floor, even though you have sent the committee out to bring you in a new slate of officers, but you have that privilege, and certainly if there are any delegates here who feel you have someone as promising, and you would like to submit the name to the committee, it might help the committee in making an intelligent selection, and we certainly would, I'm sure, appreciate that cooperation to that extent.

Sister Dailey: My reason for that, since this is a democratic organization, we would like to have everyone feel and know, because I feel the word "slate" or something like that might confuse someone, and it is your organization and it is democratic, so if all of you will submit names of persons you feel eligible, and, of course, another thing about that, you've got to know that your officers aren't paid and you've got someone, select someone, and submit their name that will give continual service and some of your officers require eight hours per day, for three years, so you might put that into your thinking.

President Wilson: You have heard this unreadiness on the part of Sister Dailey. You have heard the motion of concurrence in this resolution. All those in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: So ordered.

The President will appoint a committee for that purpose, and we will bring you in a set of officers for your consideration for the afternoon election. And we don't—when we say "slate", of course, we are trying to be realistic, and a slate is what it is going to be, because that is what you authorized us to do when you accepted this committee's recommendation. We feel that it is time that we become realistic and that some changes are needed. We want you to help us in making those changes, and certainly you will have an opportunity and a privilege to submit names from the floor in opposition to any name the committee may bring in, and that in itself should be democratic enough, and we are not trying to shut off any of the democratic processes, and we want to do the job you sent us out to do.

Sister Dailey: Correction, did I understand you to say on the floor after the committee would bring in? I meant should submit these names to the committee.

President Wilson: Yes. I still say that any delegate in here has the authority to get up and make nominations.

Sister Tucker: I understand also what Sister Dailey means is that anybody who is a member of this convention can go to this committee and present names. I think that that is what we should do and then if we are not satisfied with those presented to the committee, we can do the same from this floor and we want that understanding.

President Wilson: There is no objection to that, I'm sure.

Sister Tucker: We just wanted a thorough understanding.

Sister Marshall: I have not heard, but my resolution was sent in in due time, letters sent in from New York, which I didn't hear.

President Wilson: Who was it sent to?

Sister Marshall: Sister Tucker.

Sister Tucker: I'll see, Madam.

Sister King: Resolution 13.

Resolution 13: Whereas, there exists no present by-law or amendment to the Constitution covering exemption of payment of dues and taxes for retired porters' wives, and their Constitutional rights as members, be it resolved that the International Convention, during its meeting, adopt a resolution exempting such members having been in good standing for a period at least five years, from paying dues, and yet permitting them to retain their constitutional or voting rights; be it further resolved that this should not be a hardship on the local auxiliary by making them submit the amount due the International Auxiliary from the local treasury, but simply that these persons be allowed to continue as members in all sense of the word.

President Wilson: This resolution wasn't given the Committee, so there wasn't an opportunity to make a recommendation to this convention. Although, if you would permit me, I would like to comment on the resolution.

As you know, sometime back, if you travel over the country as we do, you learn a whole lot about these matters, and in traveling around we had found that some auxiliaries had exempted almost a third of its membership from payment of dues. Some of them have eight or ten members, five or six of them are exempt from payment of dues. How are you going to build your treasury and support your international organization? And the dues are entirely too small. If you were paying a dollar or something like that a month, or fifty or seventy-five cents, you could understand that, but a small sum of thirty cents, then you exempt the member from paying that and the auxiliary doesn't want to be responsible for per capita tax to the International Auxiliary, that member is a dead weight, and that is the reason for passing the resolution that in instances where the members were exempted from dues that the auxiliary would pay the per capita tax to the international organization. The dues are much too small and we find those same members, they belong to everything but the hook and ladder department, and we pay dues on everyone of those organizations, and we felt it was unfair to our organization to allow these things. We have widows and retired porters' wives, the Brotherhood extends that courtesy because they pay so much more. A porter in paying his dues to the Brotherhood, which is $4.00, and there is a great deal of difference between $4.00 and thirty cents, so you can see why it became necessary for us to make that provision and that ruling. I just wanted to comment so you could see the difference and reason for this. Of course, if you want to discuss and comment and act upon this, that is your privilege.

You have heard the reading of this resolution coming from the Montreal Ladies' Auxiliary. What is the pleasure of the Convention?

Sister Craig: Sister Craig of Washington, D. C., I move to non-concurrence.

I want a little clarification on this. We can exempt from the paid dues if we take care of that per capita tax out of our treasury?

Sister Tucker: May I say something further:

You see, when you pay the thirty cents, you are paying the amount due the international and a small portion remains in your treasury. Now, when you exempt a member, you simply send the portion that comes to us. Sometime ago we had considerable trouble along that way. We had a little auxiliary, I could call its name, in Sister Dailey's zone. I think they had about six members and four were exempt. So you see, that is what we ran upon and we had to make some disposition of this thing. So, I am sure if you understand it, you can go back and explain to your folks the reason for it.

Sister Craig: We felt that the members that were asking for this exemption, they'd been with the Auxiliary for periods of years and they have given in pledging dues. The dues is small to the contribution they make to the Auxiliary. We find as soon as the husbands retire, they are falling out. You take your entertainment, and they come and work. They are really doubling that thirty cents a thousand times. We feel it is so valuable to the Auxiliary we can't let them fall out, because the older women are the supporters, especially for the local, especially C.P.R. Porters, they are retired at much less than the Pullman Porters. They look at thirty cents and it runs up and they do a valuable service. At the Mother's Day Tea they come and work and it is much more than thirty cents.

Sister Tucker: But they make the contribution to the local auxiliary, and it is up to you.

Sister Craig: Can we, on our own, form a special committee for the retired porters' dues? Can I take that back to the local?

Sister King: The Auxiliary has been doing that.

Sister Craig: Can we have a rally and ask them to come back in and have a special one for those?

Sister Tucker: I'm glad you brought this up. This is place for a thorough point of view.

Sister Austin: May I state this little incident in my auxiliary. We have a lady that has been in the Auxiliary a number of years, and you know her, Mrs. Wilson, because you stopped in her home when I became President. We did not find this lady's name on the records because of this same thing that happened in St. Louis, and she thought all of the time she was a member of the Ladies' Auxiliary. My secretary and I, we searched the record and we did not find this lady's name on the record. I was afraid to hurt her feelings when we had the election, and one of my members that was responsible for it, took it upon herself to pay her dues, get her back into the organization, pay her tax. We had to do that because we have too many other retired porters' wives in the organization that are paying and this particular lady, she wants to take over, and all of the disturbance we have in the organization comes through her when she is not a paying member, and we just had to bring that thing down, and one of the members took it upon herself rather than hurt her feelings. This person would go out and influence somebody else. I'm in favor of paying, if they entertain. If we can entertain, they can pay the thirty cents.

President Wilson: It appears there is some question of the constitutional rights of these members. Is that a point you wanted to make?

Sister King: Yes, that has been in the Auxiliary over a period of five years.

President Wilson: Their rights wouldn't be violated in any way. They'd be subject to election of office and they would also be privileged to serve on committees. They wouldn't lose any of their rights in the organization as such, but if the Auxiliary wants to exempt a member, we would expect them to pay the tax, otherwise we would have too many such persons. Most of our members now are getting up in years and their husbands are retiring, many of them are passing, and we are finding more of those in our ranks now than the younger members, so that was the reason, because as we travel throughout the country we find too many auxiliaries carrying that dead weight.

Is the other resolution ready? What will we do with this resolution so we will have a record?

Sister King: I moved on non-concurrence.

President Wilson: It has been moved and seconded that this resolution be non-concurred in. You have heard the motion. Is there any discussion?

(No response.)

President Wilson: All those in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: So ordered.

Sister King: Resolution 14.

Resolution 14: Coming from the New York Division of the Ladies' Auxiliary, resolve that the members of the New

York Ladies' Auxiliary be on record as preferring the raising of dues instead of the continuance of monthly assessments now being paid.

President Wilson: Resolution No. 14, coming from the New York Ladies' Auxiliary, is to the effect that they are recommending to this Convention that you consider raising the dues and not having a monthly assessment.

Sister Allen: From my auxiliary, you know, of course, we couldn't afford to raise the dues, but each one of us agreed to pay fifty cents a month instead of thirty cents. That is, in order to have that $3.50 that is what we had to send every quarter, so we raised our dues two years ago, and I'm in accord to have dues raised and drop that tax, and I would say fifty cents.

President Wilson: We would like to have a general discussion on this resolution to the effect that the dues be raised and the monthly assessments be discontinued.

Let's have a general discussion on that.

Sister Carrie: I'd like to have a little clarification on that. Is that resolution to raise monthly dues and cut out the $25.00 or whatever special tax that has been levied on us?

Sister Tucker: Madam Chairman, I'd like to have it explained to the delegation this isn't the resolution explained. She's new, and she doesn't understand about expressing herself particularly, and I'd like her to tell you that is not the resolution sent in by New York.

Sister King: This is your first resolution and the balance would not be the same resolution. It is covering separate areas.

Sister Carrie: I would like to say I am not timid about expressing myself, but there is some confusion about the resolution sent in to Sister Tucker. That is a duplicated resolution, but I feel that if you read the entire thing you can get a better understanding on it.

Sister Tucker: The resolution sent to me was dated 1953 and confused me in that. I thought my Secretary had put the resolution in my folder through a mistake, it had on the top 1953, so it kind of threw us off.

Sister Carrie: That was sent by Secretary-Treasurer Sister Harper and she sent in the same one as in 1953 and she forgot to change the date.

President Wilson: May I read this in its entirety?

"At the regular meeting of the New York Division, Ladies' Auxiliary, held September 3, 1953, the following resolutions were adopted:"
—that is three years old—

"Resolved that the members of the New York Ladies' Auxiliary go on record as preferring the raising of dues instead of the continuation of monthly assessments now being paid. And the second part of this resolution is:

"That the regular meeting of the Executive Board, the New York Ladies' Auxiliary, September 8, 1953, that the following resolutions were adopted:

"That the New York Division of the Ladies' Auxiliary to the Brotherhood go on record as favoring any new or reinstated member must pay one year's dues in addition to the joining fee before accepted into the Auxiliary, and, (b) members of the local auxiliary will not be permitted to sit in Convention sessions without presenting paid-up membership cards and paying special convention fees, and (c) all visiting members will be required to pay a special Convention fee."

Now, that is the gist of the resolution.

President Wilson: Now, if you want to act on each part of it and want to discuss it, why, all right.

The first is to prefer the raising of dues and the elimination of the special monthly tax. What discussion would you like to have on that?

Sister Fant: Madam President, the first thing we want to clarify is one question:

Do we have a monthly tax that could be eliminated?

President Wilson: In 1950, I think, I don't know the exact year, in a Convention, it was discussed and decided that each auxiliary, owing to not building your membership, you were not sending sufficient money to support the International Auxiliary, it is all right to look at your own treasuries when you are not doing anything to build either yourself or to support the International Treasury. You have known for years that the International exists only on and to the extent of moneys that you send or fail to send, and most of you fail to send in, and that is why we are in the predicament we are in at the present time. You are self-satisfied and you want to have your international organization. You have your two international officers. You want your international officials to visit you, I don't know with what, but it is slightly ridiculous some of the reports and the monies that many of your auxiliaries send into the international organization. You keep us writing to you continually for you to accept your obligations to the international organization. We had no other choice other than to levy this special tax and it was too small in most instances. Many of you have not paid it even until today, when you could have if you wanted to.

So, now, you come to the point where many of you have just absolutely refused to pay. You haven't increased your membership any or the amount you have sent in one little bit. Many of these ladies' auxiliaries haven't had one new member in four or five years. So you can see just the extent of the support that you are giving to your international organization. You want us to carry on a first class organization, you want us to do everything up to the minute, while you were just simply laying down on your obligations and your responsibilities. When this tax was levied, before it was levied, the International President sent out a general letter to get the thinking of all of the auxiliaries, requesting you to reply as to whether you prefer the increase in dues or in special tax, and you almost overwhelmingly decided that you would want the tax instead of the dues. You didn't want to pay the extra money out of your pocket, so we had no choice than to levy this special tax. We would have been glad to assess you fifty cents or seventy-five cents, but you know you are not going to pay it, not without a battle, and we felt that the special assessment could be raised and it could very easily be raised. We sent out various suggestions and various ideas how this tax could have been raised serving little refreshments at the end of each meeting, by having grab-bags, and things of that sort, that it wouldn't cost anything much to help you with that tax, and the Chicago Ladies' Auxiliary were serving cake and tea, good homemade cake, and we can pick up four or five dollars at any of our meetings, and we have grab-bags and prepare things like that that are worthwhile, and that helps us to raise our tax and you could if you wanted to. Women do things they want to, but for some reason you just haven't wanted to support this Ladies' Auxiliary.

Sister Crawford: Sister Crawford, Denver, Colorado. Most organizations if you don't pay your tax, your organization tax, they won't seat your delegate. They wouldn't give you any voice in the sessions if you don't pay those things. Don't we do that here?

President Welson: We have threatened to on many occasions.

Sister Trotter: Sister Trotter, St. Louis. I was under the impression that we wouldn't be seated unless you pay your tax. Here you say some of them haven't ever paid. I can't understand it.

President Wilson: The Convention tax; those who haven't paid aren't here.

Sister Trotter: Not here, oh. When is a member supposed to be dropped from the roll?

President Wilson: Well, the ruling is the member becomes unfinancial in three months.

Sister Trotter: But no dropping from the roll?

President Wilson: Well, I think that should be discretionary. I don't think we have reached a place yet where you can get where you can arbitrarily drop a member, because we have found in many instances our members will pay six months or even a year. So, it might not be bad to carry them a few months and then if they don't pay, you can put them on the inactive list.

Sister Trotter: The Constitution says when they are three months behind they should be dropped from the roll, and that is why I wanted to clarify it.

President Wilson: You can use your own discretion to a certain degree.

Sister Austin: Sister Austin of Jacksonville. I think this is not the time to disperse with any special tax or anything that will help to build this organization. We have too much at stake now and I don't think we ought to do it.

Sister Collins: I've got to say this:

Listen, Sisters, we ain't in too good a shape. We are not building, that is, getting people to join. All right, I will say Philadelphia lost fifteen trains this year. How am I going to get the wife to join? Now, you are going to raise it. I might as well have sent Mrs. Wilson my charter. If you raise it, we can't get it out. If you have the tax, they say send the money and don't bother us about it no how.

Sister Allen: Sara Allen of Indianapolis.

I would like to say I have a great appreciation for that tax, because it keeps my members working and I think that if they raised the dues it would be too bad for us, because, I, myself, am in favor of more than thirty cents, because I feel that I owe it to my organization, and even if my husband retires, and I am sure that he will, I want to pay as long as I am able to pay, because I feel that is only a little bit I can do, so that is what I want to do, and I appreciate that tax, I know that, and we pay it.

Sister Hawkins: Sister Haw kins, Canada. Our members do not want to pay dues, and if you should raise it, we will lose what we got, and if you continue like we have been doing, I think that will be all right.

Sister Gunter: Sister Gunter of Detroit. I'd like to go on record as saying I'm in favor of the tax, because I feel that we will realize more out of that than the little we would get out of dues.

Sister Dailey: Sister Dailey of St. Louis. Madam President, I rise to make a motion of non-concurrence of the resolution.

Sister Sevillia: Sister Sevillia of Georgia. I second the motion.

President Wilson: It has been moved and seconded the resolution will not be concurred in. All in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: So ordered.

The larger auxiliaries would be expected to pay more. I taxed the Chicago Auxiliary $200.00 a year and they are expected to pay it. New York was $100.00. St. Louis was $100.00, and one or two others, but they ought to pay according to their membership, and if they don't pay it, it is because the members aren't working and doing what they ought to do to pay the tax, and unless you supply the money we have nothing to work with.

Sister Thomas: Sister Thomas. Los Angeles paid $100.00.

President Wilson: We could name several auxiliaries who have memberships of eight and ten who pay that tax religiously every month and never any complaint, but we find where there is a disposition not to pay, they just don't pay. Many of them just don't want to do anything to support the organization, but we are going to have to tighten up on those auxiliaries.

Sister Lyons: Sister Lyons. We pay $7.50 every quarter. I wanted you to know we sent that $7.50, but we just pay our fifty cents to have that extra money, twenty cents to send in, that's $7.50.

Sister Blanks: Sister Blanks, Pittsburgh. This is not on the tax, but Pittsburgh sent in a resolution and I want to know what happened to it.

Sister Davis: Sister Davis. Is that taxed monthly?

President Wilson: We were requesting it be sent monthly or quarterly.

Sister Davis: There is a specific amount monthly, according to your membership and in three months it will be three times that much.

Sister Tucker: May I ask what auxiliary you are from?

Sister Davis: New Orleans.

Sister Tucker: I can give your amounts stipulated.

President Wilson: While Sister Tucker is looking up these taxes from New Orleans, I understand the photographer is here and wants to take a picture of the Convention before we disperse, so don't run away, and let's get this done in an orderly fashion and as hurriedly as possible.

Sister Tucker: New Orleans' amount is $2.50 per month, $7.50 per quarter, $30.00 per year.

If there are any others who would like to know, I would like to give it to them.

Sister Jackson: Salt Lake City, Utah.

Sister Tucker: $1.25 a month, $3.75 a quarter, $15.00 a year.

Sister McQueen: Asheville.

Sister Tucker: Asheville, $1.25 a month, $3.75 a quarter, and $15.00 a year, and Asheville is paid through 1956.

Sister Williams: Boston.

Sister Tucker: Boston, $1.50, $.50 a quarter, $18.00 a year.

Sister Williams: Kansas City, Missouri.

Sister Tucker: $2.50 a month, $7.50 per quarter, $30.00 a year.

President Wilson: Let's continue. This photographer is limited as to time, and if you don't get there, let's hear the motion for adjournment.

Sister Fant: I motion we adjourn until 1:30.

Sister Austin: Elizabeth Austin, Jacksonville. I second the motion.

President Wilson: It has been moved and seconded this Convention will be recessed until 1:30 o'clock. You have heard the motion. Any discussions?

(No response.)

President Wilson: All those in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

(Whereupon, the Convention stood at recess until 1:30 o'clock p.m. of said Wednesday, September 12, 1956.)

WEDNESDAY AFTERNOON SESSION

September 12, 1956

After the opening song, "We Shall Not Be Moved," by the entire assembly, the meeting was called to order by President Wilson at 1:30 o'clock p.m. and prayer was led by Sister Blanks.

Sister Blanks: Heavenly Father, thanks be to You for this opportunity to assemble at this convention. We thank the Heavenly Father for the progress that has been made and we thank Him for the determined hearts and minds and souls that have gathered to further this program. We thank You for our International President who has been restored to her health. We ask the Heavenly Father to strengthen her and progress her on the way, and we thank the Heavenly Father for what has been done here. And, we pray You guide us throughout the Convention and help us in the Labor Convention. We thank Thee in the name of Christ. Amen.

President Wilson: Will the Credentials Committee report, please?

Sister Taylor: Chairman, Special Officers, and members and friends:

The members of the Credential Committee wish to submit the following report:

St. Louis, Missouri, 1 delegate; Dallas, Texas, 1 delegate; Atlanta, Georgia, 1 delegate; Asheville, North Carolina, 1 delegate; Salt Lake City, Utah, 1 delegate; Fort Worth, Texas, 1 delegate; Toronto, Canada, 2 delegates; New York, New York, 1 delegate; Chicago, Illinois, 1 delegate; Omaha, Nebraska, 1 delegate; Tampa, Florida, 1 delegate; Montreal, Canada, 1 delegate; Minneapolis, Minnesota, 1 delegate; Cincinnati, Ohio, 1 delegate; Oakland, California, 1 delegate; Houston, Texas, 1 delegate; Kansas City, Missouri, 1 delegate; Pittsburgh, Pennsylvania, 1 delegate; Cleveland, Ohio, 1 delegate; New Jersey, 1 delegate; Denver, Colorado, 1 delegate; New Orleans, Louisiana, 1 delegate; Boston, Massachusetts, 1 delegate; Detroit, Michigan, 1 delegate; Jacksonville, Florida, 1 delegate; Louisville, Kentucky, 1 delegate; Indianapolis, Indiana, 1 delegate; Los Angeles, California, 1 delegate; Washington, D. C., 1 delegate. There was a total of thirty-one delegates.

The proxies of delegates, Winnipeg, Canada, proxy Sister Halena Wilson; St. Paul, Minnesota, proxy Sister Halena Wilson; Portland, Oregon, proxy Sister Halena Wilson; Richmond, Virginia; Baltimore, Maryland; Albany, New York; Buffalo, New York; Savannah, Georgia, proxy Sister Katherine Lassiter; San Antonio, Texas, Sister Caviness, proxy; El Paso, Texas, Sister Caviness, proxy. Total proxies, nine; delegates, thirty-one; International officers, fourteen; grand total, fifty-four.

Absentees were Sister Stewart, Minneapolis; Sister Booth, Seattle, Washington; Sister Austin, Jacksonville.

Fraternally submitted, Sister Thelma Trotter, St. Louis, Missouri, Chairman; Sister Gertrude Ross, Sister Crawford, Denver, and Sister Annie Mae Taylor, Dallas, Texas, Secretary.

President Wilson: You have heard this report coming from the Credential Committee. What is the pleasure of the Convention?

Sister Nelson: Madam President, Artie Nelson from Memphis, Tennessee; I move this report be accepted.

Sister Ross: Gertrude Ross from Atlanta seconds that motion.

President Wilson: It has been moved and seconded this report will be accepted.

You have heard the motion. Is there any discussion?

(No response.)

President Wilson: There are one or two corrections in this report that should be made at this time. I have just consulted the International Secretary-Treasurer and we find that Buffalo is not eligible to vote or send their proxy. It hasn't kept up in its financial obligations for more than a year, and we have decided auxiliaries that don't meet their obligations, they are not entitled to the same considerations as those that do. So that is up to you to decide whether or not to allow this proxy or instruct this committee so we will know not to count that vote. You have heard the motion. Is there any discussion?

Sister Tucker: Madam President, I think in justice to all these auxiliaries that have kept up their obligations, that Buffalo is certainly not eligible to have a proxy. I am sure that Sister Lassiter understands that, but we do get confused sometimes and the auxiliaries sometimes become confused and send in when they have no right to, so, this is no reflection on Sister Lassiter, it is simply they have not kept up their obligations, their financial obligation, but they have not kept up their obligations.

President Wilson: The question has been raised regarding the proxy from El Paso. It seems as though the proxy from El Paso is missing. See if Sister Tucker has anything on that.

Sister Tucker: El Paso is Sister Maggie Mockowitz, alternate Sister Artillie Bates, F. J. Caviness, alternate. I suppose the saying alternate means proxy, because so many auxiliaries don't use that term, but F. J. Caviness is on this.

Sister Trotter: Madam Chairman, we didn't have that. We didn't add that.

President Wilson: And an additional proxy from El Paso will be added to the list.

Sister Tucker: Excuse me. You see, these auxiliaries should bring or send to their people the second proxies.

President Wilson: Are there any other corrections, omissions or additions to this Committee's report? If not, all in favor of receiving the report say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: And it is so ordered. That makes a total of fifty-five.

Sister Lee: Minnie Lee. How would that make of, you are adding another one and that leaves one added. You took off one and added El Paso, so you still have fifty-five?

President Wilson: Fifty-four instead of fifty-five, a total vote of fifty-four.

At this time we will have the report of Organization and Propaganda. Sister Mae Dailey is Chairman of this Committee.

Sister Mae Dailey: Madam President, International Officers, delegates here assembled to the Second Triennial Convention:

We, your Committee on Organization and Propaganda, after careful consideration and much deliberation. we bring for your rejection or acceptance the following recommendation, which will be read by our Secretary, Sister Davidson.

Sister Davidson: Madam President, officers and members. St. Louis, Missouri, September 12, 195. Recommendations for the Organization and Propaganda Committee are as follows:

1. Membership drive at each local auxiliary, plan extensive membership drive with personal contact committee headed by chairman — that each local auxiliary plan extensive membership drive through personal contact. Committee headed by a chairman to cover entire roster.

2. That each local auxiliary set up a committee on political education, to be known as the COPE, for the purpose of examining the records of the condidates to see if their vote is favorable for labor issues.

3. That each local auxiliary set up a committee for extensive study on health and welfare since the Brotherhood of Sleeping Car Porters adopted this program.

4. That the Executive Board should give the greatest possible thought to planning and developing means to making every meeting of the Ladies' Auxiliary interesting to those who attend.

5. That we continue scholarship awards to labor schools.

6. That special stress will be placed on the use of three sections of the International Program: (1) Organization; (2) Cooperation; (3) Legislation.

7. That there be the widest possible participation by officers and members in joint zone conferences, which are planned by the Brotherhood of Sleeping Car Porters.

8. That by working out ways and means or more visits by the International Officers to stimulate interest.

9. That if these recommendations are adopted they will appear in the Black Worker at intervals.

Fraternally submitted by Mae Dailey, Chairman, St. Louis; Eleanor Davidson, Secretary, Cincinnati; J. Ester Crawford, Denver; Gay B. Gunter, Detroit; Alma Williamson, Boston; Rosann Lyons, Fort Worth; Maggie Mockowitz, El Paso; Ella Stewart, Minneapolis.

Sister Dailey: Madam President, I would just like to ask your indulgence, and since we feel this is a very important part of our Convention program to give you this a little bit slowly so you might hear them and understand them a little bit more thoroughly, with no reflection on the Secretary.

First is the membership drive. We feel this is highly essential at this time. We feel each local auxiliary should plan extensive membership drives through personal contact. That is, if your present setup can't, or whatever you might use to cover your entire local—entire city just to be sure your city is well covered under the supervision of some person who might contact each Brotherhood family.

Secondly, that each local auxiliary set up committees on political education, to be known as the COPE, which is C-o-p-e. C for committee, o for on, p, political, and e, education; and for the purpose of examining the records of candidates to see if they will vote favorably or have voted favorably in the past on labor issues.

Three, that each local auxiliary set up a committee for extensive study on health and welfare, since the Brotherhood of Sleeping Car Porters has adopted this program.

Four, that the Executive Board, your local Executive Board, should give the greatest possible thought to planning and developing means of making every meeting of the ladies' auxiliary interesting to those who attend.

Five, that we continue scholarship awards to the labor school.

Six, that special stress should be placed on the use of the three sections of the International Ladies' Auxiliary

Program, which, namely, is organization, cooperation, and legislation.

Seven, that the widest possible participation by officers and members in the joint zone conferences, that the auxiliary members take part in the joint zone conferences which are planned by the Brotherhood of Sleeping Car Porters.

Eight, that by working out ways and means of more visits by the International Officials, to stimulate interest in the local divisions.

Nine, that these recommendations are to appear, if adopted, regularly in the Black Worker, so you might work by them.

Those are our recommendations.

President Wilson: You have heard the recommendations coming from the Organization and Propaganda Committee. What is the pleasure of the Convention?

Sister Crawford: Ester Crawford, Denver, Colorado; I move these resolutions be adopted.

Sister Johnson: Ella Johnson, I second the motion.

President Wilson: It has been moved and seconded that the report coming from the Organization and Propaganda Committee be accepted. You have heard the motion. Any discussion?

(No response.)

President Wilson: All in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: It is so ordered.

At this time the President would like to appoint the committee that you authorized this morning. We are asking every President who was here, or your delegate, to submit the name that you want placed before this committee, and the committee, when this next report is being worked upon, will retire to consider your selection. So, we are asking that you will at this time write the name of the person in your zone that you would like to place before this committee, and in this way we can eliminate a lot of time when the election goes into effect. This committee is as follows:

Sister Sarah Allen of Indianapolis; Sister Mae Dailey; Sister Minnie Lee of Chicago; Sister Velmer King of Montreal; Sister Nora Fant of Jersey City.

Mae Dailey, Chairman; Eleanor Davidson, Secretary; J. Ester Crawford, Denver; Gay B. Gunter, Detroit; Alma Williams, Boston; Rosann Lyons, Fort Worth; Maggie Moppins, El Paso; Alice Bland, Cleveland; Viola Moon, Jersey City; Ella Stewart, Minneapolis; Albuquerque; Erline McQueen, Asheville; Annie M. Taylor, Dallas.

International President, First Vice-President and Secretary-Treasurer on down, you have fourteen International Officers, so you submit the names you feel would be best qualified to serve in those positions, and the committee will select one that is best suited for those offices.

Sister Tucker: May I submit to the stenotypist three reports. I don't think I have time to read them. Sometime ago Brother Randolph asked me to represent the Brotherhood in the Auxiliary in N.A.A.C.P. in Washington, and so forth.

President Wilson: Sister Tucker is not going to read it, she's going to give it to the stenotypist to be included in the report, so you can get it in the Convention Proceedings.

Sister Tucker: And I was asked to attend a State of the Race Conference called by Brother Randolph in Washington, D. C., in and a conference April

26th, a conference called by Mrs. Vivian C. Mason, President of the National Council of Negro Women. This Council was constituted of women leaders all over the country, and because of time, I cannot read it, but it will go to the stenographer so we will have it.

(Whereupon, the following conference reports were submitted by Sister Tucker:)

"CIVIL RIGHTS CONFERENCE" under auspices of the NAACP, September 4, 1956.

"In April, 1956, I received a letter from Brother Randolph stating that I was to attend a conference in Washington from March 4th thru 6th/56 and that I was to represent the Brotherhood and the Auxiliary at this conference together with Brother Theodore Brown of the New York office.

"The theme of the conference was 'Congress must act on Civil Rights.' Arguments at the conference set forth the fact that the Constitution of the United States guarantees full equality of rights and opportunities to Americans of every race, color, religion and national origin. That legislation to secure for every American his constitutional rights has been introduced in Congress, after Congress, only to die in committee, on the calendar or by veto or filibuster, and that Congress has failed to enact a single civil rights bill for 80 years. The determination was 'Let's make it clear we want action, not words on civil rights.' The delegates were urged to ask their Senators to promise to press for early floor action on civil rights bills; to tell the political leaders in precinct, ward, county, district and state that promises are not enough; to write to the President, to the Republican and Democratic National Committees; to the majority and minority leaders in the House and Senate; to talk about the need for Congressional action at meetings of your church, your lodge, your union and your club; to write letters to the editor; get press, radio and TV to help demonstrate how much steam there is behind the demand for ACTION. Keep this up until the polls close on November 6, 1956. There were hundreds of dollars pledged to the NAACP to carry out this program and you have already been informed through many media, the terrific fight waged by the NAACP in association with other organizations. I am proud of the part our Brotherhood and Auxiliary has played in this area of Civil Rights. The conferees gathered in Washington from all points of the United States. The mass conferences were held at the Willard Hotel, 14th and Pennsylvania Avenue.

"Our leader, Brother Randolph, was present and was one of the leaders who mapped the strategy of future action. I urge you to keep up with the progress of this movement by reading all newspapers and listening to radio and TV programs. Walter Reuther, President of the United Automobile Union and Vice-President of the AFL-CIO, and Joseph Rauh, President of ADA and one of our Brotherhood lawyers, were interviewed on two separate TV programs on Sunday, September 2nd. These two leaders knew their subject matter and each was able to cope with and answer lucidly and emphatically every question asked, even the ones designed to mislead.

"May I suggest that you realize that we are living in serious times — times that try the souls of thinking people, and for this reason, please think on those things which will inform us and enlighten us and prepare us for action bound to come in the near future.

"Rosina C. Tucker, International Secretary-Treasurer, Ladies' Auxiliary to BSCP."

" 'STATE OF THE RACE' CONFERENCE, Rosina C. Tucker, September 4, 1956.

"On April 24th, seventy-three Negro leaders answered a call by our International President, Brother Randolph, to assemble in Washington to discuss the 'State of the Race,' which this group found was not good. I must confess that I was not invited to this meeting but I have always felt that wherever the Brotherhood of Sleeping Car Porters were, I could go also. So, I crashed the meeting and did receive a warm welcome from Brother Totten, Brother McLaurin and Brother Theodore Brown. Later, when the meeting recessed for dinner, I was welcomed by Brother Randolph.

"The conferees were recruited from civic, church, labor and benevolent groups from all parts of the country. These persons rejected the doctrine of 'gradualism' as a way of achievement for civil rights. They planned to increase the present membership of the NAACP from 450,000 to 1 million within two years and set a goal raising two million dollars legal education fund for the organization during the same period. They voted to create a twelve man 'Co-ordination Consultative Leadership Committee' which will be charged with the responsibility of consulting with various leaders of organizations from time to time, especially when crises arise, at which time they will place their full weight, moral and financial, behind the fight for civil rights. Brother Randolph was made chairman of the committee and he was to seek a conference with President Eisenhower, to place before him the nature of the problem.

"The committee will draft a reply to the so-called 'Southern Manifesto' signed by 101 Southern Senators and Congressmen. The committee will have the responsibility of gathering material on the meaning and significance of the desegregation decision, not only to colored people but all Americans. These decisions will be well published with the hope that it will 'touch the deep reservoir of American good will and sense of fair play in the interest of civil rights.'

"A document called 'The Negro's Declaration of Intention' was drawn up by Dr. J. H. Jackson of Chicago, President of the National Baptist Convention, was adopted by the conference, the most important part of which is, 'We intend to participate in the total cultural life of the Nation, both for personal growth and development, and for the further progress of the country itself.' The declaration also pledged obedience and respect for the laws and loyalty to the United States.

"Brother Randolph wrote me on August 22nd that since the conference was held in Washington, D. C., some of the committee, including Brother Webster, Bishop Ford, Charles W. Burton and he himself appeared before the Platform Committee on behalf of the 'State of the Race Conference' on the issue of Civil Rights in Chicago. Following that, Brother Randolph and Brother Webster appeared before the Platform Committee of the Republican Party in San Francisco.

"All of us should be very proud of our organization for it is a powerful and respected influence in the total structure of our country. Some of the participants distinguished personages, as: Brother Randolph; Roy Wilkins, Executive Secretary of the NAACP; Father Shelton Hale, Bishop of St. Philip's Episcopal Church, New York; Rev. David Licorish, Assistant Minister of the Abyssinian Baptist Church, New York; Theodore Brown, Director of Research and Education for International, BSCP; Mrs. William T. Mason, President of the National Council of Negro Women; T. R. M. Howard, M.D., of Mound Bayou, Miss.; E. D. Nixon, Treasurer, Montgomery (Ala.) Improvement Association; Mrs. Irene McCoy Gaines, President, National Federation of Colored Women's Clubs; Loren Miller, attorney, Los Angeles; and Brother M. P.

Webster, First Vice-President of International BSCP."

"CONFERENCE, Rosina C. Tucker, September 4, 1956.

"On April 26, 1956, I received a communication from Mrs. Vivian C. Mason, President of the National Council of Negro Women, to the effect that the Council would observe 'Mary McLeod Bethune Commemoration Week'—May 18th to 26th, 1956. I was asked to be present at the closing one day conference of Negro women leaders at the Statler Hotel on May 26th at which time the heads of Negro Women's National Organizations and individual women leaders in sundry fields of endeavor had been invited. This call to participate seemed important to me; therefore, I wrote President Randolph asking his opinion and his reply urged me to attend as a representative of the International Ladies' Auxiliary. I am very careful of my attendance to various meetings because it seems that many are not compatible to organized labor, therefore, my letter to Brother Randolph. The theme of the conference was, 'Women's Organizations — The New Crusade.'

"The purpose: To discuss the impact of a changing world on women's organizations — politically, socially and economically.

"There were three panels. Among the speakers were: Dr. Kenneth Clark, Associate Professor of Psychology, College of the City of New York; Mrs. Helen Gahagen Douglas, former Democratic member of U. S. Congress; Max Freedman, Washington Correspondent of the Manchester, England, Guardian; Miss Helen Hurd, Executive Director of General Federation of Business and Professional Women's Clubs; Samuel Jacobs, Washington Representative, UAW, and Mrs. Juanita Jackson Mitchell, Associate Counsel, Maryland State Conference of NAACP Branches.

"On this report I will not be able to give you a resume of the individual speaker's subject matter, but I want to leave with you some of the salient thoughts garnered:

"Women have formed the continuity of the family since slavery in that they kept the family together—nurtured and cherished it and had faith in its future. Women now have a new sense of the destiny of the Negro and are impatient that nothing disturb its progress.

"We were cautioned to develop new occasions: Build new tools for a new aspect—not as Negroes, but as Citizens. We will find that there are some who will not change. Therefore, we must center our work on YOUTH by implementing present programs and instituting additional programs. This can be done through organizations and especially by making organized religion the dynamic force it should be, for very few will deny religion and it is a fact that women work in the churches and the church should certainly be the facility of communication between us and other races.

"Because many of our young working women are married women and many are young single women, we were cautioned not to set the young people apart from us, for we need them, we need their ideas, their creative participation, for their help can be valuable in our complex society. The thought was set forth that there are desperate men and scheming, frantic politicians who deny us our civil rights. These persons know that they are wrong in their actions but to maintain their power, financial and political, they are willing to destroy the structure of our democratic government. Our status in the United States is not what other colored people of the world would desire. These races keep abreast of happenings surrounding colored people in this country as well as around the world and they are not impressed with our treatment in a democracy. Therefore, we must establish facilities for communication between different races for mutual understanding and assistance.

"It was brought to our attention by a speaker, a Southern regional representative who had a keen insight of the conditions in the South, such as Mississippi, Alabama, etc., that many Negroes have had to leave their jobs because of the activity of the 'White Citizens Council.' She suggested that Negroes subscribe to at least one Southern newspaper. Then write letters to the editors denying articles which are untrue therein, for these newspapers' aim is to influence the thinking and action of the North.

"All Negroes must have the right to vote and we must keep the issue of civil liberties clear. Civil rights must be protected and the rights of the white people who believe in civil liberties and who want to be decent about it and who are willing to 'take action' for it must be protected.

"It is an impossibility for me to give you a fuller account of this conference, but I hope you have gleaned some helpful ideas which can be expanded into forward looking programs for your educational programs. Considering this conference in retrospect, I think that I cannot close this report better than with the dynamic, altruistic statement made at the conference by Max Freedman, Washington correspondent of the Manchester, England, 'Guardian' — a great newspaper, 'The world has shrunk into a neighborhood, but not yet into a Brotherhood.'"

Sister Tucker: Also, Madam President, I told you I'd give you a summary of the money we had, and I want to say that there is an amount of $171.05 in our scholarship fund; $700.00 in our savings account, and we have in our Canadian savings account, $598.07.

I just wanted to give you that summary. I couldn't put my hand on it this morning on account of so many papers, and then, too, all of this report will be placed together and you will get it in the proceedings.

President Wilson: Does that cover the entire proceedings, the entire funds in the bank and all?

Sister Tucker: Yes. That $2,062.80 in the American Bank and $700.00 in another fund in an American bank and $171.05 in the scholarship fund, $598.87 in the Canadian Bank.

President Wilson: That would be a little over $3,000.00 on hand?

Sister Tucker: Of course, I had to compile this about three or four weeks ago, and some outstanding checks were to be deducted, but I think most of the outstanding checks are deducted, most of them. You see, our last checks were for traveling expense and maintenance and many of them went up into the hundred dollars, but we will give you that as soon as we can, as soon as we get our bank statement of August 31st.

President Wilson: You heard this additional report from the International Secretary-Treasurer with the promise you will get the additional information as it is available.

At this time we are going to have the report on Workers' Education. Sister Caviness will be the Chairman and her committee will assemble here and Sister Lassiter will take the place of the President while she's out with her committee.

We'd like that Finance Committee to get together, too, sometime.

Sister Tucker: I don't think it is ethical for the President to be on the Reorganization Committee.

President Wilson: The President is on any committee that is appointed.

Sister Tucker: Just as you say.

Sister Lassiter: Will the Convention come to order.

Sister Caviness: Madam Chairman, delegates and friends, this committee before you now is the Workers' Education Committee. This Committee is the Workers' Education Committee and the Secretary will read our resolutions.

Sister Blanks: Estelle Harris Blanks, Pittsburgh.

Madam Chairman, officers and members and Sister Lassiter, and the Executive Board and local Presidents and members:

We, the Educational Committee, beg to submit to you the following recommendations:

The report of the Workers' Education Committee recommend as follows, nine recommendations:

1. To know your organization. Redouble your efforts for Youth Labor Education and scholarship fund.

2. We recommend a further and more thorough study of labor education, why we organize and where are we effectively felt from the original labor level. Visit the Labor Union officers in your city to get all help and cooperation. Read newspapers, labor magazines on labor, clippings from your newspapers, compile these and take them into your auxiliary for current discussion, and present these to the auxiliaries.

3. We recommend that we get a copy of history on unions and the ladies' auxiliary for our information to build a foundation to use for talking points for new members and to intersperse the facts to the public.

4. All auxiliaries writing to their U. S. Department of Labor for such pamphlets on organization, and the Canadian Government included.

5. That a library be set up in such auxiliaries, and such auxiliaries set up a special committee to do this job.

6. This committee recommends a Joint Founders Day for celebration throughout the United States and Canada, established as a record to go by for all auxiliaries.

7. We further recommend that a special study be taken and made of the Railroad Retirement Act; the new Health and Welfare Plan; the Pension Plan; that a special committee be set up to get this special information and give it to the auxiliary members.

8. This Committee recommends that we make ourselves a committee of one to go back home and re-dedicate ourselves to further services in our precincts, our wards and voting districts, to find our prospective candidates, name them, read his platform policies whether Democrat or Republican, see if he or she favors organized labor policy and see if they are friendly or have been friendly in the past, try to sell the candidate on organized labor and civil rights to our friends and others. If necessary, call meetings in the homes or wherever you can gather them to talk these things over. Get the vote, help out the candidate that will help protect our organized labor policy.

9. The Committee further recommends to endorse any policy, any political party or candidate, but work and vote and try to get others to support the candidate you have found through investigation to be the candidate that is in favor of labor policies and equality and equal rights for all people.

Submitted by the Workers' Education Committee: F. J. Caviness, Chairman; Florence Bryant, Oakland, California; Elizabeth Craig, Washington, D. C.; Cora M. Thomas, Los Angeles; Lillian Collins, Philadelphia; Olive Hawkins, Toronto; L. Terry, New York, and Angelina Davidson, New Orleans; Estelle Harris Blanks, Pittsburgh; Evelyn Marshall, New Orleans; Merle Williams, Montreal.

Humbly submitted by this Committee.

Sister Williams: I recommend that these recommendations be received.

Sister Bryant: I second the motion.

Sister Lassiter: It has been moved and seconded that the recommendations coming from the Education Committee be received. Is there any discussion?

(No response.)

Sister Lassiter: All in favor of receiving these recommendations let me know by the usual sign of voting.

(Whereupon, the entire assembly said "Aye".)

Sister Lassiter: Those opposed.

(No response.)

Sister Lassiter: So ordered.

Sister Tucker: I think that at one of our conventions we had a very nice time going from one to the other saying some of the nice things you can about yourselves and your auxiliary. Suppose we try that again. We want enthusiasm in this meeting. You are not dead, we are living people and we are going to live from now on. We are going to live and do what's right during this coming session or during this session, and we just want to have some spirit.

I am going to begin with Sister Rose Taylor.

(Whereupon, proceedings were had off the record.)

(Whereupon, Sister Lassiter turns the Convention back to the direction of President Wilson.)

President Wilson: There was some business in the '53 convention referred to the Executive Board, International Executive Board, and we'd like to have the outcome.

The Secretary of the International Executive Board is now ready to report the activities that were assigned to that Board by the 1953 Convention.

Sister Velmer King: Sisters of the International Board, officers and friends, this is the report of the International Executive Board:

At the last Convention held in 1953, two items were referred to the Board. One, that the Committee for Program Planning was to be set up together and jointly with the Workers' Educational Board. This was done at our subsequent meeting held the following day and Sister Florence Ball-Jones was our instructor to work with the committee and set up a program. I think we will have a report coming from Sister Ball-Jones on that plan.

The second item referred to us was that the International Vice-President, Sister Nutall, was to be visited. You remember she was ill and we asked that Sister Wilson go to Oakland and visit Sister Nutall to find out the exact state of health. In Sister Wilson's report, I believe she visited Sister Nutall.

The Board has met three times since your last Convention and acted to its best interest on your behalf. In the ensuing period of time, there have been a number of things to be discussed and since we couldn't all get together, it was too expensive, the International President sent out many bulletins and the officers and members cast their vote that way, so they have been working for you for the last three years. I think that would conclude the Executive Board's functions in the last three years.

President Wilson: You have heard this report coming from the Secretary of the International Executive Board. What is the pleasure of the Convention?

Sister Moon: Viola Moon of Jersey City; I move that the report be received.

Sister Davidson: Eleanor Davidson; I second the motion.

President Wilson: It has been moved and seconded this report be received. Any discussion?

(No response.)

President Wilson: All those in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: It is so ordered.

Sister Jones, are you ready to make your report or your Secretary or Chairman of that group?

Sister Jones: Madam President, International officers, delegates and visitors:

We of the Program Committee wish to submit this report. These are suggestions for the whole auxiliary's program:

We suggest educational efforts as follows:

To keep membership up on all matters pertaining to labor trends and labor problems; to keep the public well informed of the progress being made in the field of labor as well as the benefits and advantages to workers; under money raising efforts, a special emphasis on Wilson Day, held in February, and make a special effort for securing new members, the same sort of a drive on Randolph Day in April; all efforts are to work toward increased membership and to emphasize labor education for the public and for membership.

The Committee wished at this time to add to this report the recommendation of the International Brotherhood, that educational meetings be held under the special auspices of the local educational committees to deal with the following vital subjects:

1. Railroad retirements.
2. Unemployment benefits.
3. Brotherhood Health Insurance Plan.
4. Pension benefits.
5. Right to Work State Laws.
6. Political registration, and
7. Ways of computing husband's pay check.

This report submitted by the Program Committee: Florence Ball-Jones, Chairman; Sister Velmer King, Secretary; Sister Halena Wilson and Sister Rosina C. Tucker.

President Wilson: You have heard the reading of this report from the Chairman of the Education Committee that was appointed to draw up the program from the '53 Convention. What is the pleasure of the Convention?

Sister Johnston: Ella Johnston; I move that the report from Sister Jones be adopted.

Sister Davis: Angeline Davis, New Orleans, Louisiana; I second the motion be adopted.

President Wilson: It has been moved and seconded this recommendation be adopted. Any discussion?

(No response.)

President Wilson: All those in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: And it is so ordered.

At this time we are going to ask the committee that was appointed to draft the letter of apology to the Sleeping Car Porters Brotherhood read that letter for your approval.

Sister Lee: Madam President and International officers and delegates, we have tried to draft a letter that we thought might be acceptable to this Convention to present to the Brotherhood.

Sister Allen will read the letter.

Sister Allen (reading):

"St. Louis, Missouri, September 12, 1956.

"To the International President A. Philip Randolph, and the International Executive Board:

"We, the International Officers, members and delegates assembled in the Second Triennial Convention, wish to thank you for the courtesy extended our International President, Sister Wilson, and International Secretary-Treasurer, Sister Tucker, and our Executive Board, in allowing them to state their position concerning the resolution to re-organize and to disband the International Auxiliary. The Convention and International Officers regret very much that their anxiety for the existence of this organization caused them to make statements that seemed to discredit the intention of the International Executive Board of the Brotherhood of Sleeping Car Porters.

"The International Officers and members of this body wish to apologize for their hastiness in speaking, and thank you for the withdrawal of this resolution.

"We assure you that it is our desire to work in peace and harmony with our Brothers and be an auxiliary of which you will be justly proud.

"In anticipation of your continued cooperation, we remain,

"Fraternally and loyally yours,

"Sara Allen,
"Velmer King, and
"Minnie Lee, Chairman."

President Wilson: You have heard the reading of the letter. What is your pleasure?

Sister Collins: Sister Collins; I move the letter be received and sent to the Brotherhood.

Sister Davis: I second the motion.

President Wilson: It has been moved and seconded this letter be adopted and sent. Is there any discussion?

Sister Fant: Madam Chairman, and to the Committee, I wish to state here the letter pretty well covers the sentiments of this organization. However, since this letter is the property of the organization, I feel at the conclusion of the letter it should carry the name of the Administrator of this organization instead of the Committee.

I so move, that if you will accept this amendment, that that correction be made.

Sister Craig: Elizabeth Craig, Washington, D. C.; I second the motion.

President Wilson: It has been moved and seconded that the motion will be amended to include the names—

Sister Fant: Not "include", but instead of the Committee's names—

President Wilson: To have the names of the International Officers.

All in favor of the amendment will say "Aye".

(Whereupon, the entire assembly said "Aye".)

Those opposed.

Sister Tucker: I am not opposing as such, but I don't think I quite understand the position that Sister Fant takes, and, Madam President, if you allow her to explain to me just what her position is—

Sister Fant: Madam Chairman and Sister Tucker, and the entire delegation, this letter represents the sentiments of this organization, the International Ladies' Auxiliary to the Brotherhood of Sleeping Car Porters, and not an appointed committee. I therefore offer the amendment that instead of the names being Sister Allen and Sister Lee at the conclusion of the letter, that it be the Officers of the International body.

Sister King: I think that is the intention of the Committee. That was only signed by the ladies of the Committee that it was offered from. It is the letter that was sent from the Convention.

Sister Tucker: You think it is all right for these names to be there?

President Wilson: Not the Committee?

Sister King: We had to sign our name at the end. The names of the officers would go to the letter at the end.

Sister Tucker: May I ask, as a point of information, that the first part of that letter be read again.

Sister Allen (reading):

"To the International President A. Philip Randolph, and the International Executive Board.

"We, the International Officers, members and delegates assembled in the Second Triennial Convention, wish to thank you for the courtesy extended our International President, Sister Tucker, and International Secretary-Treasurer, Sister Tucker, and our Executive Board, in allowing them to state their position concerning the resolution to re-organize and to disband the International Auxiliary."

Sister Tucker: Thank you.

Sister Fant: May I state there is a correction in what she read. She referred to Sister Tucker not as Sister Tucker as Secretary-Treasurer, but as President.

Sister Allen: I'm sorry, I misread it.

Sister Lee: Madam President, this Committee feels that we would like that this letter, instead of being sent to the Brothers, would be taken to the Brothers, that we might see how they are receiving it and perhaps have some kind of thought along that line. I don't know when they said "send it," whether they meant to mail it. We want them to get this letter in their meeting today, and I think the only way to do that would be to take this letter to their meeting and let them have it there.

President Wilson: I would like to say that it is the intention of the International President to appear in person and make her personal apologies.

(Applause)

Sister Lee: I think in connection with that, I think it would be advisable for the President to take the letter along with her when she makes this, in order that they would know that we have some voice in our organization.

Sister Tucker: Is that motion through?

President Wilson: It was arrested.

Sister Tucker: Was the motion finished?

President Wilson: Was there a motion this be accepted?

Sister Collins: I make a motion to receive the letter and do what they want to do with it.

President Wilson: The motion was this letter be sent from this Committee as presented here.

You have heard the motion, is there any discussion?

Sister Fant: You remember there was an amendment to that that the change be corrected?

President Wilson: The amendment to this motion was that instead of having the three names of the persons who drafted this letter, it will contain the names of the International Officials.

All those in favor of the amendment say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: So ordered.

Sister Tucker: Madam President, I'd like to state here, although I immediately apologized to Mr. Randolph yesterday; I have already sent a letter to him, my personal letter to him and the Board with my personal apology.

(Off the record.)

Sister Caviness: President, officers and delegates, I move we send a committee to go with Sister Wilson, just like the one Brother Randolph had.

President Wilson: May I suggest, so the letter gets there, you send a committee, who drafted the letter, along with me.

Sister Tucker: May I suggest that in view of the nature of this, that we send the letter with no instruction, just send the letter. These men are not expecting to be bowed down to, and send the letter and let that be the end of it without ceremony.

President Wilson: Sister Wilson prefers to make her apology in person where she made the offense.

At this time, Sisters, we want you to compose yourselves and get quiet. We are going into the solemn ceremony of our Convention. You know we have a ceremony in recognition of our departed Sisters since our last Convention, and as Sister Tucker calls the list of auxiliaries, those of you who have members who have departed, we'd like for you to memoralize your members briefly and we'd like you to make up the bouquet of white flowers for these Sisters.

(Whereupon, Sister Tucker played the song, "Shall We Meet Again.")

President Wilson: We will have a word of prayer at this time by Sister Crawford of Denver, Colorado.

Sister Crawford: It is once more again that we are assembled in this meeting of this big body. Heavenly Father, we are assembled on what should not be a sad, but a very solemn occasion. We come, Heavenly Father, with broken hearts at the loss of our loved ones who have been loyal to the cause, but You know best, Dear Lord, and never made a mistake. Give us strength and grace that we may be submissive to Thy will in presenting our loved ones and dear friends at the throne of greatness. Heavenly Father, encourage our hearts and spirits that we may do more for Thee and for humanity in the future, as we have in the past. Heavenly Father, bless each of us individually and each home that is represented, and do, Dear Lord, be a guide for our leaders that they may guide and lead us in this cause that we may be able to do more for peace, everlasting peace in this world, that we may have a better place to live and rear our children. This and all other blessings I ask in Jesus' name, for His sake. Amen.

President Wilson: At this time, as your auxiliary is called, if you have had a death, you will respond by depositing your floral offering and making a brief eulogy.

Sister Tucker: Albany. (No response.) Kirksville. (No response.) Asheville. (No response.) Atlanta. (No response.) Baltimore. (No response.) Birmingham. (No response.) Boston.

Sister Williams: I place this flower in memory of our beloved Sister M. C. Ogelsby. She was a diligent worker and always eager to fit into her task.

Sister Tucker: Buffalo. (No response.) Calvary. (No response.) Canada. (No response.) Charlotte, North Carolina.

Sister McQueen: I place this flower in behalf of Mrs. Justice, who was a charter member of the ladies' auxiliary. She is gone, we miss her, God has taken her with Him.

Sister Tucker: Chicago.

Sister Lee: The Chicago Ladies' Auxiliary has had four deaths since our last Convention. Sisters Georgia Bradley, Jeannette Bundly, Emma Hines, and Estelle McCloud. While we greatly regret the passing of these fine members, we bow in humble submission, remembering that God has not promised skies all blue, flowers thrown in our pathways all our lives through, God has not promised sunshine without rain, joy without sorrow, peace without pain, but God has promised strength for the day, rest for the laborers, light for the way, grass for the trails, help from above, daily sympathy and undying love. I place this memento in loving memory of our four departed Sisters.

Sister Tucker: Cincinnati. (No response.) Cleveland. (No response.) Columbus. (No response.) Dallas.

Sister Taylor: The Dallas Ladies' Auxiliary to the Brotherhood of Sleeping Car Porters has sustained the loss of two of its most faithful members since our last Convention. Both Sisters were serving as officers at death. Sister Alberta Williams, serving as President of the auxiliary for ten successive years, passed away suddenly on May 10th, 1954. She was a lovely person, a loyal and faithful member and a friend to mankind; carried a sweet smile along with her sunny disposition. Sister Williams proved herself to be a great leader and gave the best of her services not only to the auxiliary, but to her church and community.

Sister Mary Lee Livingston passed away on September 22, 1954. She was a noble woman, loyal and trustworthy, serving very efficiently as Secretary-Treasurer for four years.

According to the divine plan, man comes on the stage of life, plays his role and passes on. These Sisters played their roles well and very efficiently. The termination of their active life is a great loss to our auxiliary.

To these Sisters who served tirelessly and contributed much to the auxiliary, we dedicate these lines:

"Tis sad to part with friends we love,
While here on earth we stay;
But then a brighter thought comes,
We'll meet again some day.
God knows how much we miss them,
Never shall their memory fade,
Loving thoughts shall always
wander
To the spot where they were laid."

Sympathetically and fraternally submitted, the Dallas Ladies' Auxiliary submit these flowers.

Sister Tucker: Denver.

Sister Craig: Since the last meeting the Denver Auxiliary has been visited by the reaper of death three times. The persons of Sister Mammie Renwall, Sister Isadore Ramore and Sister Edna V. Harvey.

Sister Harvey was Chaplain of our organization at the time of her departure. She was a loyal and faithful worker. She loved life; she lived life. The Denver Auxiliary misses these three women. They were beautiful women. They lived beautiful Christian lives, but God is building a garden in His heaven, He plucks the beautiful blossoms, one here and one there and one over there. God, as we, wants the best, and He always comes and takes the best to build that beautiful garden above.

In memory of these three Sisters I deposit this flower in the urn of memory.

Sister Tucker: Detroit. (No response.) El Paso. (No response.) Fort Worth.

A Delegate: In memory of two members from the Fort Worth Ladies' Auxiliary, Sister A. Davis and Sister Ellen Hamilton.

The Ladies' Auxiliary was organized in the home of Sister Ellen Hamilton, by Brother Wood and Sister Hamilton. Her husband was an International Officer on the Executive Board, Second or Third Vice-President, I don't remember that. She was Recording Secretary for a long time and when she passed away she was the First Vice-President, and so I place these flowers in memory of these two deceased Sisters, and they are gone. but not forgotten, both of them from the Ladies' Auxiliary of Fort Worth.

Sister Tucker: Houston. (No response.) Indianapolis. (No response.) Jacksonville.

Sister Austin: The Jacksonville Ladies' Auxiliary to the Brotherhood of Sleeping Car Porters regrets the loss of two of its members, Sister Elmira Elliott and Sister Adelaide Fasson. Though I walk through the valley of the shadow of death, I will fear no evil, for Thou art with me.

I now deposit these flowers in their memory.

Sister Tucker: Jersey City. (No response.) Kansas City:

Sister Williams: For the Kansas City Division, the Divine Creator of the universe saw fit to take unto Himself our dear friends and Sisters, Sister Clair Manning and Sister Bessie Ross.

Sister Manning served as the President, and at the time of passing was Recording Secretary. Our Sisters worked well with the tools at their disposal. They played the game according to the rules, and before passing away they built many stepping stones in life's journey.

I deposit flowers in behalf of the Sisters.

Sister Tucker: Los Angeles.

Sister Thomas: The Los Angeles Division of the Ladies' Auxiliary, in memory of our members that passed since the last Convention.

In March, 1954, Sister Catherine Sibley, who was Chairman of the Housing Committee of the 1953 Convention. In January, 1955, Sister Louise Coston, who was a member of the Economic Council and delegate to the Cleveland Convention.

In March, 1955, Sister Vertell Simmons, who was the mother of the reporter, Brother Edley, for the Los Angeles Men's Division.

"In to each life some rain must fall,
Sorrow at times comes to all,
But always the dark and dreary
days,
Are followed by sunlight's cheering
rays;
So, in this grief that we now bear,
Remember that there are friends
who truly care,
And know that the deepest shades
of night,
Are scattered by morning's lovely
light."

I put these in memory of our three Sisters.

Sister Tucker: Louisville. (No response.) Memphis. (No response.) Minneapolis. (No response.) Montreal. (No response.) New Orleans. (No response.) New York. (No response.) Oakland.

Sister Bryant: The Oakland Division has lost two of its very fine members. The first was Mrs. Margaret Smyth; the second Elizabeth Jones; she served as First Vice-President of the organization. At her death she was Chairman of the Executive Board.

The Lord giveth and the Lord taketh, blessed be the Name of the Lord.

I deposit these flowers in memory of the Sisters.

Sister Tucker: Oklahoma City. (No response.) Omaha. (No response.) Philadelphia.

Sister Lee:

"Death the fierce tide,
that takes our loved ones from our side,
Bear them to their home forever,
on the dark ol' river side,
Where we will part and be no more,
And, again the joy to meet them
There to rest for ever more."

Sister Madelane Spith departed this last 1954; Sister Daisy Potts who departed this life in 1954. Sister Potts was reunited with the auxiliary on the memorable occasion when Sister Wilson was on her tour to Philadelphia. Sister Potts was a loyal member in 1956.

I deposit these flowers in memory of our two Sisters.

Sister Tucker: Pittsburgh.

Sister Blanks: In loving memory of Sister Thelma Franklin Tardy, Charter member of the Pittsburgh Auxiliary, I deposit this flower in the sacred memory of Sister Tardy, because she was a loyal favorite and helped us with all of our programs. We miss her much, but in loving memory we deposit this flower, and Sister Mabel Berks, who was only a member by joining once, and in sacred memory I deposit these flowers.

Sister Tucker: Portland.

President Wilson: I am representing Portland through proxy. They sent me this to read in.

"In memory of our dear Sister, Sister Caldonia Green, who passed away January 16, 1955. Sister Green was ill for several months. When she was in good health she was a faithful member, but let us not mourn her going, let us rejoice to know that her earthly labor is finished and she was prepared to go. Fraternally yours, Portland Auxiliary, Mabel Redman."

Sister Tucker: Salt Lake City. (No response.) St. Louis, Missouri.

Sister Dailey: I deposit these flowers in memory of Sister Lillian Kirby and Sister Gertie M. Verlow, two faithful members. They are gone but not forgotten. May I say they are not dead, they are just away.

Sister Tucker: San Antonio. (No response.) Seattle. (No response.) Tampa. (No response.) Toronto, Pullman. (No response.) Toronto, CPR. (No response.) Washington, D. C. (No response.) Winnipeg. (No response.)

That ends the roll.

President Wilson: This, members, will end our eulogies to our departed Sisters. We will ask you to stand and we will sing "Blessed Is the Tie That Binds."

(Whereupon, the entire assembly sang "Blessed Is the Tie That Binds.")

President Wilson: This ends the ceremony.

At this time if there is no other business to come before the Convention, we will enter into the election of officers.

I am going to ask Sister Nora Fant if she will preside for the nomination and election of the President, after which I will take the gavel.

Sister Fant: It is my privilege to declare all offices vacant, and at this time we will go into the election of officers to lead this organization onward and upward.

Sister Crawford: I just ask a question for information, please. Is it correct or part of the Robert Rules of Order, we say parliamentary procedure, to declare all offices vacant when we hold an election? I'm speaking for a matter of information for myself, because I haven't been able to find it.

Sister Fant: This means there is no office you can claim as an office as yours from now on, not even Secretary-Treasurer can declare her office until she is re-elected. All offices are declared vacant at this time, and it is your privilege to fill them with whomsoever you please. I think there was a Committee appointed on Permanent Organization, and at this time I am going to ask that this committee come forward and we will deal with one question, and that is the office of President, and after that office has been elected, and I understand the President or whoever is elected will take the chair. The Committee on Permanent Organization, if you will come forward with your Secretary and read your record that deals just with the President.

It was your request that one office, that I preside over just one office, that is what you told me?

President Wilson: Yes:

Sister Lee: Madam Chairman, delegates, members:

This Committe appointed to select a slate for the officers of the Permanent Organization felt that because of the seriousness of this job we, again, in our meeting, ask God's guidance that we might do the thing that is best for the organization.

The following names have been presented to you for the various offices:

For President: Sister Halena Wilson, Sister Rosina Tucker, Sister Velmer King.

First Vice-President: Sister Lassiter, Sister Dailey, Sister Minnie A. Lee.

Second Vice-President: Sister Velmer King, Sister Nora Fant.

Third Vice-President: Sister Fannie Caviness.

For International Secretary-Treasurer: Sister Tucker and Sister Dailey.

For the Executive Board: Sister Gertrude Ross, Sister Lillian Collins, Sister Laura Johnston, Sister Louise Meyers, Sister Annie M. Taylor, Sister Georgia M. Boone, Sister Ella McBride, Sister Florence Ball-Jones, and Sister Lassiter.

Two recommendations came in that all of the present officers retain their same positions.

This Committee sent out, voted, but because of the geographical location and the demands of the offices involved, that we recommend the following slate:

President: Sister Halena Wilson.

Sister Fant: Sister Lee, since it was the wishes of the President that we deal with just the President and then the Chair will relinquish to her, we shall pause here to deal just with the President in order that I might carry out the wishes of the Chair.

You have learned the recommendation coming from your Committee on Permanent Organization relative to which the President Office of this organization. What is the pleasure of the body?

Sister Nelson: Artie G. Nelson of Memphis. I move that the recommendation coming from the Committee on this re-election of our most worthy President, Mrs. Halena Wilson, will be adopted—re-elected.

Sister Tucker: Madam Chairman, may I ask just how you are going to elect these officers? I think that is the thing. I feel that since this has been under re-organization, and to save any embarrassment, we should elect by ballot.

Sister Crawford: What I was fixing to say, we have not accepted the report from the Committee. We cannot accept it until it is finished.

Sister Fant: Delegates, did you not understand that I said that we were going to deal with just one office at this time? Did you not understand me to say that Sister Wilson had requested that I hold the Chair for the election of the Presidency, and therefore, I am trying to carry out her orders.

Now, wait a minute, Sisters, if I think now Sister Wilson has decided we might proceed in the exception, the reading of the entire report, and then the voting upon the report that is submitted by the Committee, since that is Sister Wilson's desire, if it meets with the approval of the delegates here assembled, we will continue to listen to the reading of the report drawn up by your efficient Committee.

Shall we?

With common consent we are going to ask the Secretary of the Committee on Permanent Organization to read the entire slate submitted by the Committee.

Sister Lee: Madam Chairman, these are the recommendations and the slate as presented by this special Committee:

President: Halena Wilson.

Secretary-Treasurer: Sister Tucker.

First Vice-President: Sister Mae Dailey.

Second Vice-President: Sister Velmer King.

Third Vice-President: Sister Louise Meyers.

Fourth Vice-President: Sister Areia Walker.

Executive Board: Gertrude Ross, Nora Fant, Minnie A. Lee, Catherine Lassiter, Ella McBride, Florence Ball-Jones, Rosann Taylor.

Sister Fant: I'm sorry, I was looking right over your shoulder and you missed a name on the Executive Board.

Sister Lee: Elizabeth Austin.

Sister Fant: Thank you, Sister Lee.

You heard the reading of the list of officers chosen by your Committee and the names that were represented for your consideration. You have heard the reading of that report. Would you like for it to be read over or are you ready to vote upon it?

Sister Lee, will you re-read the whole list?

Sister Lee: President, Halena Wilson.

Secretary-Treasurer, Sister Tucker.

First Vice-President, Sister Mae Dailey.

Second Vice-President, Sister Velmer King.

Third Vice-President, Sister Louise Meyers.

Fourth Vice-President, Sister Areia Walker.

Executive Board: Gertrude Ross, Nora Fant, Minnie A. Lee, Katherine Lassiter, Ella McBride, Florence Ball-Jones, and Rosann Taylor.

Sister Fant: You have heard the report of your Committee on Permanent Organization. What is your pleasure?

Sister Collins: Madam President, how many installations, is that the first one you read? I noticed Sister Velmer King's name wasn't in the Presidency then. The Committee said they had one to be read, is this the Committee's or is the first one—

Sister Lee: The first one I read was, you know, the delegates were to hand in names that they wanted to submit for different offices, but they were to be handed to this Committee and this Committee was to choose who they would recommend to fill those offices from the names that were sent in.

Sister Fant: Is there any questions before you want to vote?

Sister Tucker: If by any means this slate is accepted; I mean the Committee's report is accepted, does it mean that the slate is accepted?

Sister Fant: By all means, Sister Tucker, if the Convention accepts the report of your Committee on Permanent Organization, you have accepted what they have presented to you. I hope that the delegates understood that all of the names that were presented to the Committee could not be officers, because you would overstep the bounds of the Constitution of this organization. Therefor, it was the prerogative of the Committee to screen the entire list of names that were presented and choose the names that was felt best for the organization and for the office.

Now, you heard the reading of the report coming from the secretary of this Committee. What is your pleasure?

Sister Nelson: Sister Artie G. Nelson of Memphis, Tennessee. After listening carefully to the Committee's report, I now move that we will accept the report and elect each officer individually and while I stand, I will move we elect Mrs. Halena Wilson as President at large at this time.

Sister Tucker: I object to that. We want to get an understanding—Madam Chairman—

Sister Fant: Sister Tucker.

Sister Tucker: Madam Chairman, we want this election to be free and open, so that everybody will be satisfied. If accepting this report as read means that we are accepting that slate, I object to it. So, we will have to arrange it so that we either not accept it or act on these different offices separately, and I think that is what our Sister there wants, and I think that is the best. And along with that, to save embarrassment, so that everybody can vote freely, I hope that you will vote that your motion will carry that we vote by ballot.

Sister Wilson: May I, at this time, set this Convention straight, and Sister Tucker. It is not according to Trade Union policies to have secret ballots. If you want to vote, we have a roll call vote.

Sister Tucker: I have been with the organizers—

Sister Wilson: That was organizers, but this is Trade Union Procedure.

Sister Dailey: Madam President, I'd like to call your attention to our bylaws and Constitution that governs the Zones. How many of you are familiar with the zoning of our International Auxiliary? We have five zones, Eastern, Pittsburgh, Detroit—we are under the supervision of the Brotherhood and we cannot set up any new zones, and you will have to know you have five zones, Eastern, Pittsburgh-Detroit, Chicago, Southwest and Texas and Pacific Coast, so you have to have a little more enlightenment or information or just your geographic location, if nothing else.

Sister Tucker: Sister Dailey, I think we understand that, but it is good to call that to our attention, because we do have these zones and a person who is elected for a vice-president should come from a certain zone. We understand that, but what we want is a free and open election here, and we want everybody to be satisfied. I want to be satisfied and you want to be satisfied, and we want such an election.

Sister Lee: Madam Chairman, may I say this to the body, that in our deliberation we wanted it that you would have an opportunity to do the things you wanted to do, and we are not attempting to keep you from doing that. The motion that was made from the Sister from Memphis would have been a motion that would have, if it had gone on through without so much interruption, would have cleared up all this. You can accept a report, she said, "We will accept the report and elect the officers separately," and there is nothing else you can do.

Sister Tucker: That is what you can do. She added something else.

Sister Lee: The thing she added didn't make the election, because we couldn't do anything else. After this Committee's report would have been accepted, with the provision she made that the officers be elected separately, then, your Chairman, the only thing she would have done is stated Sister Halena Wilson's name had been submitted as President, "is there any other nominees?" and all of the way down the line, and that certainly will give you the permission to do what you want to do.

Sister Tucker: With that understanding, all right.

Sister Fant: I wonder, are we satisfied thus far, because if we are satisfied, shall we proceed?

What is the request now? We have before us the report. Sister Lee, please stand here. We have the report of the Committee on Permanent Organization. What is your pleasure?

Sister Crawford: Sister Crawford, Denver. I move that we accept this report from the special committee and we will vote on the officers separately, and there be allowed to be nominees from the floor, if desired.

Sister Marshall: Marshall of Montreal, Canada. I second the motion.

Sister Fant: It has been properly moved and seconded that the report coming from the Committee on Permanent Organization be received and each officer be voted upon separately, and if there is a desire from the floor, their nominations are stated.

Is that your motion?

Sister Crawford: That's right.

Sister Fant: You heard the motion. Let it be shown by your usual sign of voting.

(Whereupon, the entire assembly said "Aye".)

Sister Fant: The "Ayes" have it, and so carried.

We are going to deal with the office of the President.

Sister Lee: The President, Sister Halena Wilson.

Sister Fant: Is there any nominations from the floor?

(No response.)

Sister Fant: Can we have a motion then?

Sister Crawford: I move that the nominations close on Sister Halena Wilson, and the presiding officer be instructed to cast a unanimous vote for Sister Wilson.

Sister Gunter: I second the motion.

Sister Fant: It has been properly moved and seconded that the nomination be closed on Sister Wilson and one unanimous vote be cast for President.

Sister Tucker: According to the authority vested in me, I pass one unanimous vote to Sister Wilson. Sister Wilson has been duly elected, and may I extend this gavel.

President Wilson: Sister Lee, at this time, will read the next officer to be elected.

Sister Lee: Secretary-Treasurer, Sister Rosina Tucker.

President Wilson: You have heard the reading of Sister Tucker's name for International Secretary-Treasurer. Are there any nominations from the floor?

Sister Tucker: Madam President, for some time I have felt that I have carried these books and attended this money long enough, and as you have heard me say that I have been seeking an audience with President Randolph to discuss relinquishing these books and retiring from the Ladies' Auxiliary. Therefore, I decline being re-nominated.

President Wilson: You have heard the action coming from the International Secretary-Treasurer declining the nomination. What is the pleasure of the Convention?

Sister Fant: Madam Chairman and Sister Tucker and delegates here assembled: I come before you at this time to make an appeal to the office and officer of the Secretary-Treasurer, and I'm doing this, ladies, because of some things, we understand, that many of the delegates here possibly are not aware of, and, at this time, I think that Sister Tucker will thoroughly understand why that as a member of the International Board that we feel that if she lets us down at this time she has forfeited the right for us to believe that she has been interested and is interested in this organization. I therefore, Sister Tucker, as a member of the former Board, we don't know what you are going to do here today, but as a member of the Board and as one that loved the organization, one that knows your value, and we believe that there is a time in the life and organization that it is no profitable time to make changes in outstanding offices.

I come here to this microphone at this time to plead with Sister Tucker and for the indulgence of the delegates here that at this time we prayerfully request Sister Tucker to rescind that statement and accept the office of Secretary-Treasurer.

(Applause)

Sister Dailey: Madam Chairman, I wholeheartedly voice the sentiment of the former speaker. In addition to that, I should just like to say we have made this very strong plea to the Brotherhood to let us go on trial for the next three years, and to move the Secretary-Treasurer's office now, we haven't the money in the first place, it requires a hired or paid secretary and office expenditures and that type of thing and this Auxiliary is not in a position to pay for movement or storage or anything else, and in view of that fact, I should like to make a personal appeal to Sister Tucker to keep from moving the Secretary-Treasurer's office at this time, together with her valuable service, and everyone is making a sacrifice. I should like to point out the financial status. The only two top ones are paid and that comes from the Brotherhood, and if we got to change offices today and take our money and move the office fixtures and hire another secretary, and go to that extent, they feel we should be able to take over this little subsidy they have been allowing us; so, I appeal to Sister Tucker again to repeal her declination.

Sister Craig: I am not going to appeal to Sister Tucker to keep her office, because I know how much she has to work and how much it would cost to move, and Sister Tucker has been talking over a year she wanted to retire, she was tired, and I think it is a fine thing for you to plead for the office, but it is a hard job and she's had it ever since we had an International Office, and if Sister Tucker wants to rescind and keep the office, I will help her, because I love her and I will do all I can to help her carry on in Washington.

President Wilson: I should like to add my voice to the others who have expressed themselves at this time. We know Sister Tucker is tired and we know that the burden becomes very hard, because no one knows how hard we have had to work to bring in the money and to keep this organization running as smoothly as it has over these past months. It has been a tremendous job, and it is enough to destroy a person's faith and health and everything else to keep this organization going, but I'm sure Sister Tucker knows this is not the time for Sister Tucker to retire. She probably could keep it for a few more months until we get over this re-organization, until we can find our way around, and if she wanted to retire to do so, but not now. We urge her not to do that at this time when we are pressed and when we have problems that we don't know the outcome of them yet. So, we are urging Sister Tucker to reconsider and that she accept this office if only for a limited time.

Sister Tucker: Sister Tucker says no.

President Wilson: The nomination will have to come from the floor for another Secretary - Treasurer. She knows what that entails. That means setting up an office someplace else. Who would you want for your Secretary-Treasurer? Who would you like to place in nomination for Secretary-Treasurer?

Sister Dailey: I rise to nominate Sister Elizabeth Craig of Washington, D. C.

A Delegate: I second the motion.

President Wilson: It has been moved and seconded you accept the office.

Sister Craig: I couldn't do it. I wouldn't have the time. Thank you very much for your consideration.

Sister Collins: She said she would resign or something like that, but we didn't carry the motion. Let us carry the motion and I believe she will accept it.

Sister Fant: I second the motion.

President Wilson: It has been moved and seconded that Sister Rosina Tucker should be elected as the Secretary-Treasurer of this International Auxiliary.

You have heard the motion. All in favor will stand.

(Whereupon, the entire assembly stood.)

President Wilson: Thank you, Sisters, for your display of affection and confidence in the need and ability of our Secretary-Treasurer, and I know she is too good an organization person to let you down, because she knows what that means.

Sister Tucker: Madam Chairman, I appreciate this, but suppose I keep this, say, for a year and give you a chance to get somebody else.

I am going to tell you something now that I don't usually tell, and you may be surprised. I have worked with this organization for thirty-one years, which means that I am thirty-one years older. This is September, is it not? On November 4th I will be seventy-five years old.

(Applause)

(Sister Tucker continuing)—and you know that I should be retired.

President Wilson: We are thoroughly in sympathy with Sister Tucker. I am not quite seventy-five, but sometimes I feel like I'm eighty-five, so I can understand how she feels, because the years do take their toll.

At this time we will have the reading of the next officer to be elected.

Sister Lee: First Vice-President: Sister Mae Dailey.

President Wilson: The next person to be placed to be elected by this Convention is Sister Mae Dailey, who has been placed in office for the First Vice-President.

Are there any nominations from the floor?

Sister Stewart: Ella Mae Stewart, Minneapolis, Minnesota. I make the motion that Sister Mae Dailey be the First Vice-President.

Sister McQueen: Helen McQueen of Asheville; I second the motion.

President Wilson: It has been moved and seconded that the recommendation of Sister Dailey as First International Vice-President be accepted. You have heard the motion. Those in favor say "Aye".

President Wilson: Those opposed?

(No response.)

President Wilson: So ordered.

Sister Lee: Second Vice-President: Sister Velmer King.

President Wilson: The next person being placed before you is Sister Velmer King for the Second Vice-President.

Are there any nominations from the floor?

Sister Hawkins: I, Olive Hawkins, nominate Sister King for Second Vice-President.

Sister Blanks: I second the motion.

President Wilson: It has been nominated and seconded that Sister Velmer King be Second Vice-President.

You have heard the motion. All those in favor of the motion will vote "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed?

(No response.)

President Wilson: It is so ordered.

Sister Lee: Third Vice-President: Sister Louise Meyers.

President Wilson: You have heard the nomination of Sister Louise Meyers of Houston, Texas, for the Third Vice-President. Are there nominations from the floor for this office?

Sister Housall: Sister Housall, Kentucky. I would like to ask consideration for more reasons than one. Texas being a very wide state and hard to control, possibly, and I move a person who has worked hard and had much experience be re-elected, Mrs. Fannie Caviness.

President Wilson: Other nominations to this office? We have two nominations. One, Sister Louise Meyers and Sister Fannie Caviness. Are there other nominations?

I suppose we have to have a standing vote.

All those in favor of Sister Caviness—she was the last to be named, so you will vote on her first—all those in favor of Sister Caviness will stand and be counted. Delegates only.

(Whereupon, fourteen delegates stood.)

President Wilson: All those in favor of Sister Louise Meyers will stand.

(Whereupon, twenty-three delegates stood.)

Sister Lee: Twenty-three for Sister Meyers, and fourteen for Sister Caviness.

President Wilson: Sister Meyers has been duly elected as Third International Vice-President of this organization.

Sister Lee: Fourth Vice-President: Sister Areia Walker of Los Angeles.

President Wilson: May we state that Sister Walker is taking the place of Sister Ardella Nuttal, who has been indisposed for the past three years or more, and there was a need for the morale of that division that a Vice-President be elected who could carry on the work. The Committee is recommending Sister Areia Walker for this office.

Are there any nominations from the floor?

Sister Tucker: I nominate Mrs. Cora Thomas for Fourth Vice-President, and who is a delegate here and who will be able to carry on the work.

Sister Thomas: Cora Thomas. I decline to Sister Walker.

Sister Craig: Is it correct for us to put somebody in nomination who isn't present or has she been contacted to find out if she'd accept?

President Wilson: I asked Brother Randolph for information on this point and the Counselor from Los Angeles asked me—told me that Sister Walker was interested and she would accept. I asked Brother Randolph if in her absence what should we do and he said we could make a recommendation to the Auxiliary—to this Convention, that they accept this person.

You have heard the motion. All those in favor of Sister Walker as the Fourth International Vice-President will say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed?

(No response.)

President Wilson: And it is so ordered.

Sister Lee: Could we read the whole slate of the Executive Board or would you rather just read one, or could we read the whole number that we recommend and let you vote on it or shall we take them one by one?

President Wilson: The question is if you wanted to take the eight lay members on the Executive Board and vote as a whole or if you wanted to, you can proceed to vote one by one.

Sister Blanke: Madam President, time is getting late; I move we take the eight lay members.

Sister Davidson: I second the motion.

President Wilson: It has been moved and seconded that the eight lay members be elected as a whole rather than take each one by one.

You have heard the motion and the second that the eight lay members be elected as a whole rather than take each one by one.

You have heard the motion. Is there any discussion?

President Wilson: All in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: So ordered.

Sister Lee: First name is Sister Gertrude Ross, Atlanta, Georgia; Sister Nora Fant, Jersey City, New Jersey; Sister Minnie A. Lee; Sister Katherine Lassiter; Sister Elizabeth Austin; Sister Ella McBride, Denver; Sister Florence Ball-Jones, Pittsburgh; Sister Rosann Taylor.

Sister Taylor: Madam President, and all International Officers, I am sorry, I can't talk now, but I have to offer my resignation on account of my husband being very ill and I had a slight stroke and I don't think I can take the load. Thank you for the eight years. It has been a long time and I loved the work.

President Wilson: We have one of the members who has declined to accept the nomination, so that leaves a vacancy.

Sister Lodge: Lodge, Fort Worth, Texas. I wish to place Mrs. Indiana Green. She is the educational instructor and I'd like to place her name on there.

President Wilson: We have the name of Sister Indiana Green from Texas.

Sister Dailey: I'd like to place the name of Sister Susan Lester of New Orleans.

Sister Clair: Clair of New York. I'd like to place the name of Ada V. Dillon of New York.

Sister Blanke: Are we considering the Zones from which she resides?

President Wilson: Yes. Pittsburgh-Detroit Zone. She is from Cleveland.

Sister King: May I nominate Sister Estelle Blanke to serve in that capacity.

Sister Blanke: I decline, because we have one officer from that one.

Sister Dailey: Detroit, Cleveland, Indianapolis, Cincinnati.

President Wilson: You have the name of Sister Sara Allen, who has been added to this list.

Are there others?

Sister Blanke: I make a motion we close the nomination on Sister Allen.

Sister Allen: I would like to decline that nomination. My love for the organization, I would like to do all of the things I can, but I have illness in my family and it is one of those things that goes on for a time and I wouldn't be able to serve, and I appreciate it, and I will do all I can locally.

I'd like to nominate Sister Eunice Hurt, St. Louis.

President Wilson: She's out of the Zone.

Sister Land: Sister Whittaker of Detroit.

President Wilson: Are there other nominations to complete these officers? Are there other nominations?

Sister Nelson: Sister Nelson, Minneapolis. I move that the nominations be closed.

Sister Hopper: Sister Chevallier of Toronto, Canada.

Sister Nelson: I would like to ask a question, Madam President. Is it a fact that the Executive Board has to come from different zones, the Executive Board?

President Wilson: Yes.

Sister Nelson: Do you have a member from Texas on that Board?

President Wilson: Sister Meyers.
How many do we now have in nomination?

Sister Lee: According to my count, I have only two, and that is Sister Ida Whittaker and Sister Chevallier.

President Wilson: Does that complete the list?

I have been informed that these last names give us more than the required number. We are attempting to vote on seven of the lay members, eight rather. We have nine. So, we will have to make a decision between the last two mentioned persons. Sister Chevalier, will you stand? She is from Toronto, Canada.

All those in favor of Sister Chevalier, all of the delegates please stand.

(Whereupon, some of the delegates stood.)

President Wilson: Sister Whittaker, come out so we can see you. This is Sister Whittaker.

All those in favor of Sister Whittaker as the Board member will stand.

(Whereupon, some of the delegates stood.)

President Wilson: Evidently, Sister Whittaker has been selected.

Sister Collins: Madam President, I didn't know you could put people in unless they were delegates.

President Wilson: We are not electing delegates, lay members on the Board. We had too many, so we had to do some eliminating.

Sister Tucker: I think, Madam President, that what Sister Collins wants to know is, is it proper that we—of course, I like Sister Whittaker and she knows it, but is it proper to put somebody on that is not a delegate?

President Wilson: Isn't Sister Whittaker a delegate?

Sister Tucker: No.

Sister Blanke: Is there anything in the Constitution for not voting for a member that is a member of an Auxiliary, who is brought up by the president, who are members and voting delegates? Is there anything in the Constitution that we can't put her in?

President Wilson: Not that I know of, but you are supposed to vote for your delegates.

Sister Blanke: We have something above giving an office to one not present.

Sister Tucker: I think that for us to be on the safe side that in voting for Areia Walker, who is not here, that some decision should be made, some change of rules. We should motion in some way that the rules be suspended and this person's name put up and you vote on it, otherwise, our understanding has always been that the person has to be a delegate.

Sister Blanke: She can be elected by proxy.

President Wilson: May I say that anticipating something of this nature, that I have written to Brother Randolph and I asked him what to do in a case of this kind. I knew Sister Nuttal could not be here and I knew this change was going to be made, and I asked him what could be done, and he said we would have to elect a delegate —we would have to fill that office in this Convention, but we could make a recommendation that a certain person could be elected to that office. I get my information, because I don't want to lead you wrong, and I don't want you to think I am attempting to do that.

Sister Tucker: But you have nothing to show—I don't mean we are disputing you, but there is nothing to show that Brother Randolph said that. We have to say we will have to suspend the rules and then you will be covering this situation, it seems to me.

Sister Blanke: Isn't it true, Sister Wilson acts in proxy?

President Wilson: Cora Thomas is the delegate from Los Angeles.

Sister Hodge: Sister Hodge, Fort Worth. All of us know that everybody in the Auxiliary can't be a delegate, and my understanding is if you are a paid-up member, paid your dues and tax for three years, you can be elected to any of these offices. We can't send all of the members here. That is my understanding, if you are a paid-up member.

Sister Tucker: We are not supposed to send all of your members. According to your membership you have one delegate to one hundred members; two delegates to one hundred twenty-five. You are not supposed to send all of your delegates, only one. It seems to me to be on the safe side that we should suspend the rules and it seems to me that is the better way to do it, and you will have the same result without being questioned.

Sister Fant: I, Nora Fant, of Jersey City, New Jersey, offer a motion that the rules be suspended for the election of our Fourth International Vice-President and we go on record as electing Sister Areia Walker of Los Angeles, California.

Sister Tucker: I second the motion.

President Wilson: It has been moved and seconded that this Convention will suspend the rules for the purpose of electing Sister Areia Walker the Fourth International Vice-President in her absence.

You have heard the motion. Is there any discussion?

A Delegate: Question.

President Wilson: All those in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: So ordered.

Sister King: I would like to make a motion the rules be suspended the same way as we have done in the previous case so Sister Whittaker can serve on that Board.

Sister Nelson: I second that motion.

President Wilson: The motion is before the Convention that we suspend the rules as in the previous case, for the purpose of electing Sister Ida Whittaker to the Executive Board.

All those in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: So ordered.

We are honored at this time to have a very fine friend of the Ladies' Auxiliary. I hope he doesn't think we are too terribly disordered. Brother Burton of Chicago has consented to come over and install these officers, and I hope he isn't too disgusted with us.

Brother Burton: When I came into this room about an hour ago, I thought I was coming into a dream. You were softly singing our "Sweet Hour" prayer and I thought what a wonderful spirit would prevail in this meeting from there on, but I see you are like men when it comes to doing certain things. I think it is fine to do things like that and arrive at a fine decision.

I'm glad to be here this afternoon and to greet you at one of your sessions. I usually have to come along with Brother Randolph when he has to come over, but this time I came over alone. I wish to congratulate you and to express my high appreciation of the work that you have been doing through your Auxiliaries and for the Brotherhood of Sleeping Car Porters.

May I ask that those that have been elected to office come stand down in front here for this brief installation service. All those who have been elected to office, beginning with the International President and then the First Vice-President and each one falling in her place.

Now, ladies, you have been duly elected as Officers of the International Ladies' Auxiliary. I want to say this word about the reasons why you have been elected. You have been elected to these various offices because your following, these delegates, have confidence in you, confidence in your vision, confidence in your loyalty, confidence in your devotion, and confidence in your ability. I shall not take the time here to try to outline the duties of your respective offices. You know those duties all too well. Most of you have been performing those duties during past years, and it will just be a continuation for you to continue these duties, but before I say further, let me tell you and these ladies assembled here one little story, which I want you to carry away with you: The story is told of a man who was strolling on the lakefront, and all of a sudden he heard someone cry, "Help, help, help," and he turned to see a man going down under the water for the first time. He jumped into the lake, fully clothed, as this drowning man came to the top, and he was crying still, "Help, help, help," and this would-be rescuer grabbed him by the arm and started to the shore with him, but as he started to the shore with this drowning man by the arm, the arm came off, for it was an artificial arm, and the man went down the second time, crying, "Help, help, help," and as he came up his rescuer grabbed him by the leg, and as he started to shore with him, his leg came off. It was an artificial limb, and the man went down the third time, coming up for the last time crying, "Help, help, help," and then the rescuer threw his arm around the man's neck and said, "Well, if you will just stick together, I will save you."

Now, ladies, you have been elected to these various offices by your comrades and colleagues with the belief that you will stick together. We are convinced you have deep devotion and great loyalty and we are convinced you have fine abilities, and putting these attributes into effect, there can be no question about the future of the Ladies' Auxiliary to the Brotherhood of Sleeping Car Porters, and now as a lifetime friend of our International President, A. Philip Randolph, and as a good friend over a period of years with your International President, and knowing many of you fine women in this organization, I now have the privilege to induct you into the office to which you have been elected, and I do this with confidence, knowing that you will not disappoint, that you will not fail, that you will measure up in every particular, and let me say in final conclusion, let me remind you of some words that St. Paul himself used, which might certainly be helpful to you. In Second, Timothy, 215, you will read these words from St. Paul: "Study to show thyself approved unto God. A workman that needeth not be ashamed."

Going out as women, women on behalf of a great organization, you are living in a time of stress and strain of world tension and you are placed in positions as leaders. In that position you have to have imagination as well as vision and leadership, and we shall be looking forward during the next three years for your building a more effective and strong organization and one that will take its place in rank.

Bow your heads in prayer. Oh, God, we pray thy special blessing upon these good women who have been elected to these various offices in this organization. We pray they may have thy divine guidance and leadership. We pray that the spirit of our Christ may lead them in all their work and guide them in all they may do, and we pray they may realize we cannot always have everything just as we want it at the time we want it, but that it takes patience and it takes work and it takes faith in order to bring about those things we yearn for most. We ask all these blessings in the name of our Savior, Jesus Christ.

Amen.

And on behalf of the Brotherhood and the women who have elected you to this office, I bid you God speed and wish you every success my heart can wish, Mrs. Wilson, and I am sure you have surrounded yourself, and the ladies have surrounded you, with a group of women that have been devoted to the cause.

And, Sister Tucker, because of the years of arduous service, you don't know what defeat means and stopping means. We urge you onward and upward and forward and wish you all of the success in the world.

And Mrs. Dailey, we have the same wish for you. We have observed your untiring work for this organization and the Brotherhood, and success as First Vice-President of the organization.

I started to say Feldman, but I know it is Mrs. King. It has been my pleasure to know you for a number of years and in the work you have done in this organization of the Ladies' Auxiliary, may the Lord bless you and keep you.

Mrs. Meyers, I believe you were just elected to the Board for the first time. I'm sure you bring to this Board new life and new hope and new imagination. We are living in a time, where, I'm sure, your coming onto this Board will mean a great help and assistance.

Mrs. Lassiter, I have known you through the years, too, and I know that you have borne the work in the heat of the day. I know that you know what sweat and toil and blood and tears mean to the Brotherhood. Continue on in the same direction you have been pouring your efforts, and put your trust where it belongs.

Mrs. Dobson, you are standing in, but I know you have also in years gone by done work for the organization and been a friend of the organization. I know the ladies of the organization hate to see you leave the Board. I know your Sister will continue on.

Mrs. Ross, by the sagaciousness and wisdom you have displayed I know your membership on the Board will mean a great deal to the Board itself and to the whole organization of the Ladies' Auxiliary.

Sister McBride, I have known you through the years and I knew your husband and his loyalty to the Brotherhood. Onward and upward, and we wish success for you.

(Speech to Sister Fant was inaudible.)

Sister Ross, we are looking forward for the next three years for greater things being done by the Ladies' Auxiliary.

Sister Lee is doing a fine job in Chicago, and we know that she will continue to do great work for the Ladies' Auxiliary.

Sister Jones, we are glad to extend you the right hand of fellowship and welcome and encouragement. Mrs. Jones, I know you are going to use every ounce of courage to help the Ladies' Auxiliary to higher levels.

Mrs. Austin, I know your heart is in this cause and I know that you are going to give every ounce of devotion to the Board and may the Lord bless you and keep you.

Mrs. Whittaker of Detroit, you are from the motor city. That is where the wheels are made and turn around, and I'm sure you are going to be a wheel of motion on this Board, and I'm sure we all join in wishing you well. Be a great administrator and help the officers of this organization to higher success. The Lord bless you.

You all now are duly inducted into your various offices.

(Applause)

President Wilson: Thank you, Brother Burton.

If the Convention will come to order, we will be out of here in a short time. if you will just be a little quiet. We haven't completed our business. We still have some things to be done, so if you will be quiet, we will get out of here as soon as possible.

One point of business that ought to be taken care of at this time, and that is to do with the Convention Tax Contest. There were some members who responded very beautifully to this contest. Most of the Auxiliaries did, and we are grateful to you because you did help to build our finance tremendously through your loyal support of this contest. We divided the membership, as you know, into three groups. We would like at this time to announce the winners in each of those groups and I'd like to say for the benefit of you members with smaller groups, who can't do anything, I'd like to direct your attention to a very small group out on the far West Coast, and whose report I read this morning, where they had five members at one time and that Auxiliary, over the period of this contest, raised over $400.00 for their Convention fund and have had their taxes paid one hundred per cent. That award will go to the Seattle, Washington, Auxiliary.

Then we have the very fine State of Texas represented. That Auxiliary has also done a tremendously fine job during the life of this contest, and that is the Dallas Ladies' Auxiliary, with Sister Annie Mae Taylor. The award will be given to this Auxiliary also for its fine work. They raised a nice Convention fund and their Convention tax has been paid very loyally.

I have the figures in my office, but I didn't think to bring them with me.

The next one we would like to say will go to Jacksonville, Florida. That is really one of our finest Ladies' Auxiliaries. It supports everything a hundred per cent. They write in to me and say, "Mrs. Wilson, we want to support anything you send down here and we want to take care of all of our obligations, and if we are not doing as you want us to do, let us know so we can adjust our business to be in accord with you a hundred per cent." So, the Jacksonville Ladies' Auxiliary receives the other award, and in behalf of the International Ladies' Auxiliary, I certainly extend my personal thanks as well as that of the International Organization. This is the first time that you have really responded with the Convention tax as you should have done. So, next time we will know how to start, we will start a little earlier and get a little more done, and we want to thank you again for your splendid cooperation.

I understand we haven't had the report of our Finance Committee. Will that Committee report at this time—with your consent it is decided not to have the—we would like not to have the Work Shop this evening. It's just a little bit too much to try to go through that Work Shop, and if it is done right it does require a lot of talking and a lot of working and we wouldn't like you to come down and have it half done. The Work Shop is really a very select school of instruction and we would like to have had it, but we just don't see how we can physically come back here tonight, so if it meets with your approval, we'd like to discontinue and not have the Work Shop this evening.

Sister Lee: Minnie A. Lee of Chicago. I move that we do not have a Work Shop.

Sister Gunter: Gay Gunter of Chicago. I second that motion.

President Wilson: It has been moved and seconded that we do not have the Work Shop this evening. You have heard the motion. Is there any discussion?

(No response.)

President Wilson: All in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: It is carried.

Sister Meyers: Louise Meyers of Houston, Texas. I want to offer a motion that this Auxiliary Convention go on record as giving a very fine St. Louis Ladies' Auxiliary a rising vote of thanks for the hospitality shown us while we were in this city.

Sister Taylor: I second the motion.

President Wilson: You have heard the motion. Is there any discussion?

(No response.)

President Wilson: All those in favor will stand.

(Whereupon, the entire assembly stood in a rising vote of thanks.)

President Wilson: I understand at this time there is a request to make a presentation.

Sister Lee: International President, members here assembled:

The Chicago Ladies' Auxiliary feels that we also should show appreciation for any service that is given to us, and we are very fortunate in having the International President in our city. She, unless illness or something prevents, never misses our meeting and always encourages us in anything we attempt to do. We know we are not able to give her like we would like, but we, on behalf of the Chicago Ladies' Auxiliary, would like to present this small check to our International President, that she might know that we love her and we appreciate everything that she does for us.

(Applause)

President Wilson: Thank you very much. I'm very proud of my Auxiliary, and as you know, I was very happy when I had Sister Lee to take over when it was decided that I couldn't hold any longer. Sister Lee very graciously came in and has made an excellent President ever since. Chicago was fortunate to have had her for that purpose.

Thank you very much from the entire Auxiliary.

I'd like the members to stand. We have quite a number of members here.

(Whereupon, the Chicago Ladies' Auxiliary stood.)

Sister Craig: I have something to present to the St. Louis Auxiliary.

President Wilson: We have something to present to the St. Louis Auxiliary from Sister Craig.

Sister Craig: Will the President of the St. Louis Auxiliary—we thought perhaps you'd like to have the three top officers of the organization see these pictures we had taken at Washington, D. C., with Sisters Tucker and Wilson and Brother Randolph.

Sister Trotter: May I say on behalf of the St. Louis Division, it certainly is good looking and I assure you we will frame it, and in years to come you can come to St. Louis and find this picture.

Sister Craig: I have one here for Sister Minnie Lee. This is the dinner for Sister Tucker, International President and International Secretary-Treasurer.

President Wilson: Are there other announcements, anything else you want to do at this time before the Convention closes?

Because you have meant so much to us for so many years, and because you have been very kind, the people from Texas would like to present to you this little token, and accept it in the spirit it is given. Remember it is not what it is, but the spirit in which it is given.

Sister Caviness: I thank you all for this, and I hope I have served you well. Thank you.

President Wilson: Well, are there other announcements? Anything else you want to do at this time?

Sister Taylor: I didn't understand what you said about the Convention fund.

President Wilson: Your Auxiliary won that contest in the group it was competing in. You will receive your check later.

Sister Taylor: Madam President, I would like to expess my thanks to the International for this award. We worked awfully hard for this contest and the ladies cooperated beautifully, and I want you to know that when I go home and carry the good news and tell them we will receive the check, they will all be happy and have smiles.

President Wilson: I want to thank the Texas Auxiliary for the fine support.

Sister Dailey: Could you arrange for us to have a board meeting sometime tomorrow?

The International Executive Board will hold its first meeting here tomorrow afternoon at 3:00 o'clock. I don't know where. We will meet here in this room for the purpose of organizing the board. You know the board has a report of punctuality and we don't want to start with our new officers straggling in, so, please, when we say 3:00 o'clock, try to be there at 3:00.

Sister Dailey: Madam Chairman, the Finance Committee is ready for its report. For the use of the building facilities and the gymnasium, which we secured for your use this evening, $75.00. The reception service for three hundred persons, $285.00. The amplifier rented for two days, $14.00, making a grand total of $364.00 Convention expenses.

President Wilson: You have heard the report coming from the Finance Committee. What is the pleasure of the Convention?

Sister Taylor: Sister Taylor of Texas. I move we accept the report coming from the Committee.

Sister Lofer: Sister Lofer of Kentucky; I second the motion.

It has been moved and seconded the report coming from the Finance Committee be accepted.

All those in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: It is so ordered.

We'll have the auditor's report at this time.

While the auditors are getting together, I think all of us would like to thank you for your confidence in returning and electing us to our various offices. We assure you we will try to serve you as well in the future as we have in the past.

Sister Boone: Madam President, officers and members of this Ladies' Auxiliary:

We, the undersigned members of the Auditing Committee, have reviewed the books of the International Secretary-Treasurer, and wish to report to the Convention asembled, that as far as we can ascertain, the books are in order. The Committee wishes further to go on record as commending the International Secretary-Treasurer for the fine and capable manner in which she has looked after the financial interest of the membership. Notwithstanding, it is felt that in the total interest of the locals that as soon as possible a physical audit should be made of these books for the reason that in the Convention session, time does not permit to go over and thoroughly check the entries.

Respectfully submitted, Florence Ball-Jones, Chairman; Velmer King, Secretary; Viola Boone.

Sister Fant: Madam Chairman, Nora Fant; I move the report be accepted and placed on file.

Sister Carey: Sister Carey, of Los Angeles; I second the motion.

President Wilson: It has been moved and seconded the report coming from the Auditing Committee be accepted and placed on file.

Sister Tucker: I mean that you have noticed that recommendations has been made. This is the second time for the books to be gone over by an accountant. That is right. That is for your protection and mine also. I want to report that there was time elapsed from the time I tried to get someone and the time that they finally agreed to come, but it was too late for me to have that taken care of before the Convention, but I have made arrangements for someone to look after that for you in side of two or three weeks, and so I will be better satisfied and it will come through the Executive Board, a report of that matter. I don't want you to think I object to that, it isn't that, it is proper procedure that these things be looked after and looked after properly, but the main thing is that we haven't had the money to pay for it.

President Wilson: If you will remember, it was in the International President's report that as soon as possible an audit would be made and individual copies would be sent to each auxiliary, so that will be done so you will have that information.

You have heard the report from that committee. It has been moved and seconded that this Committee's report be accepted. All those in favor say "Aye".

(Whereupon, the entire assembly said "Aye".)

President Wilson: Those opposed.

(No response.)

President Wilson: So ordered.

I wish to thank this Committee very much.

Is there any other business? Anything you would like to bring before the Convention at this time?

Sister Craig: Madam President, I'd like to bring before the Convention our dues cards. It seems to me, I would suggest we have them made in three parts, because when you go to each of them to turn them all over, they're folded in such a way it really makes—it's not so very good.

President Wilson: They were?

Sister Craig: Yes, I suggest they make the cards in three parts or book form.

President Wilson: That is the suggestion.

Sister Dailey: I merely wanted to make an announcement. The flowers, we had planned to use them over in the gym this evening, but since we are not having another meeting, all of you here might feel free to come up and get yours, some of the flowers are from the St. Louis Auxiliary.

Sister Hughes: Madam Chairman, I wonder if Mrs. Dailey would permit the suggestion. I happen to know it is acceptable to have these flowers sent to a hospital as a contribution from this Convention.

President Wilson: The suggestion is from the St. Louis Auxiliary for sending these flowers and I think the suggestion should come from the St. Louis Auxiliary.

Sister Dailey: I beg your pardon, I didn't hear you. I'm sorry.

President Wilson: There is a suggestion coming from Sister Hughes from Louisville, Kentucky, she was wondering if since these flowers were so very beautiful, if the St. Louis Auxiliary would consider taking them to some person who is sick in the hospital and present them as a gesture from the International Convention.

Sister Craig: I so move we do that, because I feel there are, perhaps, some sick members in the auxiliary of St. Louis, and I feel they should have the flowers, also, if there is some sickness in the auxiliary.

President Wilson: Sister Craig, could we do more than suggest. They are the St. Louis Auxiliary's flowers, and they can do what they please with them.

Sister Craig: Instead of tearing them up.

Sister Dailey: Sister Willis—

President Wilson: If they're—

Sister Dailey: We have two auxiliary members; one very dangerously ill, and Sister Willis is Third Vice-President, and she has not been able to attend this Convention, so the members here—so we will have enough to send to our auxiliary members.

Sister Pruit, who is ill at this moment and attended our Los Angeles Convention, but won't be able to make it here.

President Wilson: If there is no further business to come before the Convention, the Convention will adjourn until the time set by the International Brotherhood in 1959.

(Whereupon, the International Convention of the Ladies' Auxiliary of the Brotherhood of Sleeping Car Porters stood in adjournment.)

Sept 1965

ASA PHILIP RANDOLPH

SUBJECT FILE BROTHERHOOD OF SLEEPING
CAR PORTERS
Ladies Auxiliary
4th Triennial convention

"Know Ye the Truth and the Truth Shall Make You Free"

PROCEEDINGS OF
FOURTH TRIENNIAL CONVENTION
of the
LADIES AUXILIARY
TO THE
BROTHERHOOD OF SLEEPING CAR PORTERS
(An International Union).
Affiliated with the
American Federation of Labor and Congress of Industrial Organizations

Held at Del Prado Hotel, Chicago, Illinois
September 14-17, 1965

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to the
BROTHERHOOD OF SLEEPING CAR PORTERS

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William H. Bowe, New York	*International Secretary-Treasurer*
Halena Wilson, Chicago	*International President Emeritus*
Rosina C. Tucker, Washington	*International Secretary-Treasurer Emeritus*
Grace Rembert, New York	*Chairman Provisional Council*
Elizabeth Austin, Jacksonville	*Executive Vice-President Provisional Council*
Minnie A. Lee, Chicago	*Secretary Provisional Council*

Minnie A. Lee, Chicago	*Convention Secretary*
Elizabeth J. Lucas, New York	*Convention Sargeant-at-Arms*

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Ida Whitaker, Detroit, Michigan
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Anna Canada, Portland, Oregon

RULES

Florence Ball-Jones, Chairman, Pittsburgh, Pa.
J. Esther Crawford, Denver, Colo.
Rosine McLemore, Chicago, Ill.
Lucille Mickens, Chicago, Ill.

RESOLUTION AND CONSTITUTION

Chrystine H. Ford, Jr., Chairman, Washington, D.C.
Rosina Tucker, Washington, D.C.
J. Esther Crawford, Denver, Colo.
S. D. Lester, New Orleans, La.
Hortense Riley, St. Louis, Mo.
Anna Canada, Portland, Oregon
Gladys Slade, Washington, D.C.
Rosine McLemore, Chicago, Ill.
Juanita Reese, Ft. Worth, Texas
Lucille Mickens, Chicago, Ill.
Ethel Holt, Washington, D.C.
Bernita Varret, New Orleans, La.
Helen Thomas, Chicago, Ill.
Beulah Alexander, Chicago, Ill.
Daisey Gilbert, Chicago, Ill.
Garda Chevalier, Toronto, Canada

EDUCATION

Gertrude Ross, Atlanta, Ga., Chairman
Annie Mae Taylor, Dallas, Texas
Garda Chevalier, Toronto, Canada
Anna Canada, Portland, Oregon
Elizabeth Craig, Washington, D.C.
Bazer Mathews, Atlanta, Ga.
Mamie C. Barnes, Oakland, Calif.
Georgia Boone, Jersey City, N.J.
Mabel Jack, Chicago, Ill.
Katie O. Jones, Chicago, Ill.
Rosine McLemore, Chicago, Ill.
Bernita Varret, New Orleans, La.
Lillian Jordan, Charlotte, N. C.

ORGANIZATION

Florence Ball-Jones, Chairman, Pittsburgh, Pa.
Annie Mae Taylor, Dallas, Texas
Juanita Reese, Fort Worth, Texas
Elizabeth Lucas, New York, N. Y.
Sylvania Avant, New York, N. Y.
Agnes Thornton, Chicago, Ill.

DELEGATES

To The

FOURTH TRIENNIAL CONVENTION
LADIES AUXILIARY
BROTHERHOOD OF SLEEPING CAR PORTERS

SEPTEMBER, 15, 1965

Division	No. of Delegates	Names of Delegates
Atlanta, Ga.	1	Mrs. Gertrude Roas
Chicago, Ill.	1	Mrs. Rosine McLemore
Dallas, Texas	1	Mrs. Annie Mae Taylor
Denver, Colo.	1	Mrs. J. Esther Crawford
Detroit, Mich.	1	Mrs. Ida P. Whitaker
Ft. Worth, Texas	1	Mrs. Juanita Reese
Jacksonville, Fla.	2	Mrs. Mildred Carrier Mrs. Elizabeth Austin
New Orleans, La.	1	Mrs. S. D. Lester
New York, N. Y.	1	Mrs. Elizabeth Lucas
Oakland, Calif.	1	Mrs. Mamie C. Barnes
Pittsburgh, Pa.	1	Mrs. Florence Ball-Jones
Portland, Oregon	1	Mrs. Anna Canada
St. Louis, Mo.	1	Mrs. Hortense Riley
Washington, D. C.	1	Mrs. Crystine H. Ford

TOTAL DELEGATES: 15

New Orleans, La.	Members	Mrs. Eugenia Garran Mrs. Bernita Varrett

LADIES AUXILIARY
To The
BROTHERHOOD OF SLEEPING CAR PORTERS
PROCEEDINGS OF
FOURTH TRIENNIAL CONVENTION
DEL PRADO HOTEL
5307 Hyde Park Boulevard
Chicago, Illinois

September 14 - 17, 1965

TUESDAY MORNING SESSION

SEPTEMBER 14, 1965

The Fourth Triennial Convention of the Provisional Advisory Council to the Brotherhood of Sleeping Car Porters convened in the Crystal Room of the Del Prado Hotel, Chicago, Illinois at ten o'clock a.m. with Sister Rosine McLemore, President of the Chicago Division, presiding.

SISTER MCLEMORE: We will now call to order this session of the Fourth Triennial Convention of the Provisional Advisory Council of the Ladies Auxiliary. Will you please stand and sing the National Anthem and the Brotherhood's Marching Song. Sister Rosina C. Tucker, International Secretary-Treasurer Emeritus, at the piano.

SISTER MCLEMORE: We will have the invocation by Rev. Emmitt C. Mobley, Assistant to the Pastor of Greater St. John Baptist Church.

REV. EMMITT MOBLEY: Our Heavenly Father who loves us all, we bow before Thee as we come together for this meeting and as we do so we humbly ask for a continuation of Thy loving kindness and tender mercy.

Direct us, O Lord, in all our doings with Thy most gracious favor and further us with Thy continual help, that in all our workings, begun, continued and ended in Thee, we may, finally, by Thy mercy come to everlasting life, through Christ, Our Lord. Amen.

SISTER MCLEMORE: Thank you Rev. Mobley. I am happy to welcome you on behalf of the Chicago Division. Cordial greetings to the Delegates and Visitors and hope your stay in Chicago will be a pleasant and profitable one.

SISTER MCLEMORE: We will now have the Roll Call of Delegates. Fifteen delegates responded. There were quite a few visitors present.

SISTER MCLEMORE: I am now going to ask Sister Minnie A. Lee, former President, Chicago Division, to introduce the Permanent Chairman.

SISTER MINNIE LEE: Now, Sisters, it gives me great pleasure to present to you the permanent chairman of the Convention at this time, who will take over, Sister Elizabeth Austin, President of Jacksonville Auxiliary. Sister Austin is acting in the absence of Sister Grace Rembert, who is ill. I am sure Sister Austin is known to most if not all of you. She is very active and has done a great deal for the Jacksonville Division.

SISTER AUSTIN: Glory and Praise to Jesus Give
For his redeeming Grace.
And are we yet alive
To see each others face.

Madam Chairman, Officers and Members of this Fourth Triennial Convention of the Ladies Auxiliary to the Brotherhood of Sleeping Car Porters. I am very happy to bring you greetings this morning from a very fine group of women from the Jacksonville Division Ladies Auxiliary, and to give you an account of our Stewardship. For the past three years I am happy to say that the Jacksonville Ladies Auxiliary have enjoyed a very pleasent and successful Christian Fellowship. We have some of the finest women for Officers and Members that can be found anywhere. There comes a time when does not feel fully capable, nor can find words to completely express the full measure of appreciation; today, I find myself in this position. My life is dedicated to my church and the Ladies Auxiliary. My life has been enriched through my fellowship and association with you. Whatever inspiration, experiences, knowledge and wisdom I have gained, I have shared with the Organization. In consideration as a working creed to a basic faith, I shall give you the statement of Henry Van Dyke.

"Be glad of life because it gives you a chance to love, to work and to play and to look up at the stars, to be satisfied with your possessions but not content with your self until you have made the best of them. To despise nothing in the world except falsehood and meanness, to fear nothing except cowardice and to spend as much time as you can with body and spirit in God's out-of-doors. These are little guidepaths to peace." Thank you. (Applause).

SISTER AUSTIN, CHAIRMAN: I will now appoint the following Committees: Sister Elizabeth Lucas, Page for the Convention Sessions; Sisters Chrystine Ford, Chairman, Committee on Resolution and Constitution; Gertrude Ross, Chairman, Education; Anna Mae Taylor, Chairman, Credential; Florence Ball-Jones, Chairman, Rules; Florence Ball-Jones, Chairman, Organization.

SISTER AUSTIN: As was aforementioned, that due to illness, Sister Rembert is not present, I am therefore happy to have Sister Green of New York to read Sister Rembert's address, entitled "The Future Belongs To Those Who Prepare For It."

SISTER GREENE: Platform Guests; Delegates and visiting Friends:

It is an honor, a privilege and a pleasure to greet you at this our Fourth Triennial Convention in the city of Chicago; known as the convention city, because of its historical background.

It was settled by James Thompson a Civil Engineer, August 4, 1830. The name was derived from an Indian, according to some. He was called "skunk on wild onion", which meant all powerful.

It has one of the largest railroad center in the world, a leader in commerce, industry, manufacturing and transportation. Its beautiful lakes, bridges, museums, 600 periodical and newspapers. Not to mention Soldier Field, Clearance Buckingham Memorial Fountain. The Stock Yards. The great Fire of 1871. Alder Planetarium, and Educational Institution: are outstanding and we are taking advantage of these things today with much pride and enjoyment.

I would like for you to think with me a few minutes on the subject "The Future Belongs To Those Who Prepare For It."

At this very moment every Major Labor organization in the U. S. is under a moral duty to re-examine its policies; to determine whether it is contributing to the integration of American life; or perpetuating segregation and poverty. Before we can look toward the future we must review the past, then have a good look at the present, evaluate both, make a reasonable comparison then look for a brighter future through the process of illumination of past mistakes, and present errors and make progress from our vast experiences.

In the recent White House Conference on Education in July 1965, President Johnson said, "more attention will have to be given to developing highly individualized courses of study for each student. Secretary of Labor Williard Wuirtz sums up another facet of it when he says, "any high school senior in doubt about whether to seek a higher education, faces an unflattering proposition." The machine now has a high school education, in the sense that it can do most jobs that a high school student can do. So the machine will get the jobs, because they work for less than a living wage. A person needs fourteen years of education to compete with these machines." There is a difference of from $25 to $40 per week in the pay envelopes of the trained educational worker from the untrained worker. This creates ghettoes. You live where you are able to pay.

In preparing for the future our first giant step should be in the field of Education.

This obligation falls with particular urgency on the educational system of the U.S. which is a major era in which large minorities must exist side by side in amity. Indeed, it may be said historically, that the various communities which have served generation of youngsters coming from minority and foreign language group have provided one of the great unifying forces of this country. Back in 1847 Dr. Townsend Harris founded the Free Academy with an "open door" policy to all. He said, "Let all the children of the rich and the poor take their seats together and know no distinction save that of industry good conduct, and intellect." This policy has not kept pace for the Negro. One thought I would like to bring to your attention, is to be interested in the achievements of your child. Attend open school week, talk to his teachers, see that he is not on the road to becoming a drop-out. Never be too busy to attend P.T.A. meetings. I have attended many meetings and our mothers were always few in numbers, when other group were there showing interest in their children. The President of the Parlor Car Attendants, Brother L. H. Greene, Jr. and his group work hard to raise funds, that provide scholarship for their children who finish high school and want to attend college. Applications are processed some-times with the help of Brother McLaurin. It works well in New York. Try it in your local.

It is important that we begin to think in terms of preparing students in the lower grades in order that they may be prepared to compete in higher grades. If a child goes to private school; graduates, go into private industry to work, then live in a private world, he could make out alright; but it does not work that way. Life is open and above board; so as one prepares for life you may as well start at the begining to integrate and it would be comparatively easy to make one step at a time in routine. But, if one is segregated all of his educational career then step into an open world, he will find it rather difficult to exist or make it difficult for some one else. This has no place in an integrated society.

For a number of years, various group of interested citizens have been endeavoring to deal with the complex problems of the disadvantaged. Heading the committee of educators is the Honorable Benjamin F. McLaurin, member of the Board of Higher Education in the city of New York, (our Eastern Zone Supervisor).

If we are to be of service to our youth we must think in terms of revolutionary technologies of automation. For as important as Civil Rights may be; they become meaningful in the fullest sense only when men are sufficiently educated to attain the economic and social status which enables them to exercise and enjoy these right. Today, however while millions of men and women are being displaced every year as the result of technological changes, three million workers still have less than a fifth grade education and in the next year and a half alone some five million young people will be added to the labor market with two million of these having less than a secondary school education. Our challenge, then, is to provide the best possible education at the highest possible level for the greatest number of citizens in order to bring into being the kind of work force - of professionals, scientists and technologists prepared to cope with the problems of a revolutionary age.

There is no room in education or labor for a higher level "dumpingground."

While exploring the worlds problems and Brotherhood needs; as an Auxiliary, (which means helper) we wonder what we can do to assist the Brotherhood. First, it is our duty to stand by. Once the program is set up, we can help to carry it out, then plan and work hard to make the porters job better, more secure and higher wages, better fringe benefits. Every advantage they get is more security for us and our children. Our first duty is let them know how much we appreciate their efforts. A living example of preparation for the future is seen in our Pullman organization. When men were first hired, you know, all the preparation needed was a desire to work honest, clean and good manners. Now our present day porters has to have all this; plus a high school education, which leads us to know; we need to provide an education an oriented enviroment for our children to grow up in, cultured impoverished homes, and sterile neighborhood. Labor can give itself credit for a great deal of our educational system, but we can't live on past laurels, we must work mentally and physically to keep it alive.

Our leader, Brother A. Philip Randolph, is not only a leader for the Brotherhood, but a world leader in labor and economics in the world. I am proud to be connected with such interlectuals as we have to guide our organization. I am deeply greteful for the experience gained at the Leadership Institute, and conventions held from place to place. I wish each member could attend. It would revive your interest and cause you to feel, not only what can my Auxiliary to for me, but what can I do for my Auxiliary. Are you a paid up member?

May I leave this thought with you? When there is something to do that you can do. Don't wait, the time is NOW.

(Standing ovation) (Applause).

SISTER AUSTIN: Thank you so much Sister Greene. This is a very timely and enlightening message by Sister Rembert.

SISTER AUSTIN: We have a visitor in the person of Mr. C. H. Heasley, U. S. Treasury Department of U. S. Bonds, who came to address the International Brotherhood, but thought the Ladies would also be interested and therefore asked permission to speak to us.

Mr. Heasley stated he found it wise to talk to the ladies as they handle the money of the family. He told how important it was for each family to purchase U. S. Bonds, it shows in a tangible way our patriotic belief in our Government, and the advantage of possessing bonds.

He ended with a "funny"story about an old couple who was carried away together in their bed during a storm and the wife reminded the husband it was the first time they had been out together at night for a long time. (Laughter). Applause.

SISTER AUSTIN: Thanked Mr. Heasley for coming and enlightening us about the value of U.S. Bonds. We will now have the reading of the minutes of the Convention in Montreal by Sister Lee.

The minutes was read and on a motion by Sister Annie Mae Taylor, of Dallas it was seconded and was approved.

SISTER MCLEMORE: Asked that all Local Auxiliaries who had deceased members since the last Convention, to please turn in their names for the memorial.

SISTER AUSTIN: Stated she purchased a "Get Well Card", to be sent to Sister Rembert and asked all present to sign so that she will know we are thinking of her.

SISTER AUSTIN: Sister Rosina C. Tucker, International Secretary-Treasurer, Emeritus; we will be pleased to have a few remarks from you.

SISTER TUCKER: I am so very happy and pleased to be here present and to say a few words to you.

I am exceedingly happy to see so many delegates and friends present. It does my heart good, everyone seems so cheerful. I can assure you, so long as I live I will be a part of the Auxiliary.

(Sister Crawford and Sister Greene and others commended Sister Tucker for her meaingful and instructive remarks).

SISTER LUCAS: Presented her guest, Mrs. Lelitia Ballenger, who is retired from the Department of Classification, U.S. Post Office. Mrs. Gortha Lavorite of Minneapolis and Mrs. Lillian Calhoun, of St. Louis, guests of her husband. They express pleasure of being present.

SISTER AUSTIN: We, will now have a few announcements, by Sister McLemore.

SISTER MCLEMORE: There will be a Bus Tour at 2:30 P.M. leaving from in front of the Hotel. I am asking all the ladies to take it in.

On Wednesday evening there will be a Reception in the Hotel. All are invited.

SISTER ANNIE MAE TAYLOR: Chairman of Credential Committee, asked her committee to meet her after the close of the meeting.

SISTER FLORENCE BALL-JONES: Chairman, of Rules Committee, asked her committee to also meet after the close of this session.

SISTER AUSTIN: There being no further announcements, the first session of the Convention is closed. The meeting stands adjourned at 12:30 o'clock to reconvene at 9:30 a.m. on Wednesday.

(The convention was adjourned at 12:30 p.m. to reconvene at 9:30 a.m. September 15, 1965, at the same place).

WEDNESDAY MORNING SESSION

September 15, 1965

Wednesday Session of the Convention was convened at 9:30 o'clock by Sister Rosine McLemore, President of Chicago, Ladies Auxiliary.

SISTER MCLEMORE: We will now sing the "Union March Son." "Hold the Fort," with Sister Tucker at the piano.

INVOCATION: By Sister J. Esther Crawford of Denver, Colorado.

SISTER ELIZABETH AUSTIN, CHAIRMAN: Called for the report of the Rules Committee:

SISTER FLORENCE-BALL-JONES, CHAIRMAN: The meeting opened after the morning session on Tuesday. Prayer was said by Sister Jones. After remarks from Sister Jones, the Chairman; the following Rules were made.

1. *Opening Session - 9:30 A.M. to 12 Noon*
2. *Afternoon Session - 1:30 P.M. to 4:00 P.M.*
3. *Presiding - Vice Chairman, Sister Austin*
4. *First two row of seats across the front of the room is for the Delegates*
5. *All Rules to be governed by the Roberts Rules of Order*
6. *All speakers on the floor at 9:30 A.M.*
7. *All speakers must be recognized by the Chair, then give name and local, before speaking.*

THE COMMITTEE:

Florence Ball-Jones, Chairman, Pittsburgh
J. Esther Crawford, Denver
Rosine McLemore, Chicago

It was moved then seconded that the report of the Rules Committee be adopted.

SISTER AUSTIN: We will now listen to the Financial Report by the Acting International Secretary-Treasurer, Brother William H. Bowe:

BROTHER BOWE: Officers, Delegates and Friends of the Convention. It gives me great pleasure to be here amongst you beautiful ladies. May I congratulate you on your fine spirit of cooperation in the representation of your membership here today.

I will now go into the report.

LADIES AUXILIARY
To The
BROTHERHOOD OF SLEEPING CAR PORTERS
217 West 125th Street, New York, N. Y.

STATEMENT OF RECEIPTS AND EXPENDITURES
AUGUST 1, 1964 to JULY 31, 1965

CASH BALANCE - July 31, 1964		$ 3,174.95
RECEIPTS		
Income from Locals		
Dues - Schedule #1 - Col. 2	$ 477.55	
Initiation Fee - Schedule #1, Col.3	5.75	
Overage - Schedule #1 - Col. 4	.20	
Total - Schedule #1, Col.1	$ 483.50	
Other Income		
Interest - Savings account	114.58	
Washington Division - Refund Loan	125.00	
Contribution - "Americas Tenth Man"	20.50	
Cash On Hand	1.25	
Total Income		744.83
Total Receipts		$ 3,919.78
EXPENDITURES		
Ira Rosenberg Printer - Letterheads & Envelopes-Advisory Committee	$ 18.80	
Secretorial Service-Advisory Council, Financial Statement & Miscellaneous	149.00	
Petty Cash	48.26	
Bank Charge	2.37	
Total Expenditures		218.43
CASH BALANCE - July 31, 1965		$ 3,701.35

Financial Report continued

SUMMARY OF CASH BALANCE

Manufacturers Hanover Trust Co. - Savings Account	$ 3,423.05
Manufacturers Hanover Trust Co. - Checking Account	278.30
CASH BALANCE - July 31, 1965	$ 3,701.35

August 1965

All Figures Are Subject To Audit.

/s/ William H. Bowe

William H. Bowe, Acting
International Secretary-Treasurer

LADIES AUXILIARY
To The
BROTHERHOOD OF SLEEPING CAR PORTERS

SCHEDULE #1
Income from Locals

Pullman Porters	Total Col. 1	Dues Col. 2	Fees Col. 3	Overage Col. 4
Asheville, N. C.	$ 17.20	$ 16.70	$ .50	$ -
Chicago, Ill.	44.10	43.35	.75	-
Cincinnati, Ohio	14.40	13.40	1.00	-
Dallas, Texas	42.20	42.20	-	-
Denver, Colo.	28.20	28.20	-	-
Detroit, Mich.	13.00	12.50	.50	-
Ft. Worth, Texas	16.50	16.30	-	.20
Jacksonville, Fla.	65.90	64.90	1.00	-
Los Angeles, Calif.	46.50	46.50	-	-
New York, N. Y.	36.75	36.50	.25	-
Oakland, Calif.	26.70	26.20	.50	-
Portland, Oregon	49.80	49.30	.50	-
St. Louis. Mo.	33.00	33.00	-	-
Washington, D. C.	32.25	31.50	.75	-
Canadian				
Montreal, Que	17.00	17.00	-	-
Totals	$ 483.50	$ 477.55	$ 5.75	$ .20

__Financial Report continued__

__LIST OF DIVISIONS AND DATE - LAST REPORT RECEIVED__

Asheville, N. C. - August 1963
Atlanta, Ga. - January 1965
Baltimore, Md. - April 1964
Charlotte, N.C. - March 1961
Chicago, Ill. - June 1965
Cincinnati, Ohio - Autust 1965
Cleveland, Ohio - March 1964
Dallas, Texas - July 1965
Denver, Colo. - May 1965
Detroit, Mich. - August 1965
Ft. Worth, Texas - February 1965
Houston, Texas - July 1963
Jacksonville, Fla. - June 1965
Jersey City, N.J. - April 1963
Los Angeles, Calif. - April 1965
Mineapolis, Minn. - April 1963
Macon, Ga. - June 1960
Memphis, Tenn. - December 1959
Montreal, Can. - May 1965
New Orleans, La. - August 1965
New York, N.Y. - July 1965
Oakland, Calif. - July 1965
Portland, Ore. - July 1965
Pittsburgh, Pa. - August 1959
Philadelphia, Pa. - August 1963
St. Louis, Mo. - June 1965
Tampa, Fla. - August 1960
Toronto, CPR - June 1963
Washington, D.C. - June 1965

It was moved and seconded that the financial report read by Brother Bowe be accepted with thanks. Motion carried.

A number of questions were asked, which Brother Bowe said he would find out and let the Sisters know. The report for the year, August 1962 to July 1963 was asked for. After debating, it was found that the report for that period had been sent to the Auxiliaries last year.

It was also questioned that the Financial Report for the Convention should have been a three year report instead of a one year report.

Brother Bowe stated he would have a three year report made up and be sent to all local Presidents and Secretary-Treasurers upon his return from the Convention.

SISTER AUSTIN: Thank you Brother Bowe. It gives me a great honor and privelege to present to you our Brother A. Philip Randolph, International President of the Brotherhood of Sleeping Car Porters and our International Counselor. (Standing ovation).

BROTHER RANDOLPH: Thank you, Ladies. Let me hail, salute and congratulate the delegates and sisters of this convention of the Ladies Auxiliary upon your loyalty, devotion and dedication to the cause of the Brotherhood and the trade union movement.

Let me hail and salute the pioneer leaders of the Brotherhood of Sleeping Car Porters Ladies Auxiliary, Sister Wilson, former International President now ill, and Sister Tucker, here with us, former International Secretary-Treasurer.

The Auxiliary is different from all other organizations, as it is economic. I am proud to say the Porters were lifted from a salary of $67.50 pay per month to over $450.00 per month. One of the major and outstanding accomplishments of the Brotherhood for its members is the forty-hour week.

We are proud to have the Ladies Auxiliary with us. We are proud to see you in such good numbers and I want to bid you onward, forward and upward.

Brother Randolph was presented a plaque by Sister Riley, President of St. Louis Ladies Auxiliary as a token of their love and respect. (Applause).

SISTER AUSTIN: On behalf of the delegates to the Fourth Triennial Convention of the Ladies Auxiliary to the Brotherhood of Sleeping Car Porters, we want to welcome Mr. Leo Perlis, Director Department of Community Services, AFL-CIO, to address our Convention this morning.

May I say that this is an important area of our Government. It is for this purpose and this reason that we have invited Mr. Perlis to address the Convention at this time.

Mr. Perlis. (Applause).

Summary of Remarks

by Leo Perlis, Director

AFL-CIO Department of Community Services

President Randolph is not only a great leader of the Civil Rights Movement, but a great labor leader and American as well. We are proud that President Meany appointed Brother Randolph as a member of our National AFL-CIO Community Service Committee. I am grateful to you and to him for inviting me to address your Convention.

The American labor movement is not a johnny-come-lately in the struggle for civil rights and in the war against poverty. It goes back many generations, of course, but I personally remember how we picketed motion picture theaters in a North Jersey city to persuade them to sell Negroes orchestra seat tickets as well as gallery seat tickets. This was thirty years ago. And I personally remember also how we helped to organize the unorganized - including the unemployed on relief and WPA projects - and called upon both Federal and local authorities to do something - with PWA, NYA, WPA, NRA, etc., etc. - about the unemployed and, more to something about preventing unemployment. That, too, was more than thirty years ago. It is obvious, of course, that neither the struggle for civil rights nor the war on poverty were won in those days, but we were aware of both the moral degradation of the one and the economic imbecility of the other and we tried to do something about them. I should like to think that the labor movement planted some seeds in those days - seeds that helped in the flowering of the New Deal, the Fair Deal, the New Frontier and now the Great Society.

But seeds are not enough - nor are flowers. Flowers wilt and die unless we norish them and cherish them, Flowers are useless and pointless unless we enjoy their beauty and their aroma. We must arrange them, look at them and smell them.

The same goes for legislation, the Civil Rights Act and the Economic Opportunity Act and the Federal Aid to Education Act - all these new laws of the Great Society - are only the beginning and they can very well turn out to be the end unless we translate them into programs and projects and activities in our communities - the kind of programs, projects and activities that will make our communities and their agencies more representative of the people and more responsive to the people's needs. This means not only militant and dynamic action on the part of the have-nots but responsible action and participation as well.

Mr. Leo Perlis address continued

The poor have gotten the short end of the stick - and they do now and always will unless they are willing - and are helped - to raise themselves out of their poverty and misery through education, training, responsibility on the job, responsibility as good neighbors and good citizens. This will never happen unless discrimination and segregation, economic, political and social, stops. This will never happen unless housing and jobs and schooling are made available to all. But this can never happen unless the impoverished and the segregated, black and white, can participate actively in the development of policies, in the formulation of programs, in the establishment of projects and in the training of indigenous leadership for the purpose of helping determine their own destinies as self-reliant human beings.

The Office of Economic Opportunity is only a beginning - and a good beginning if only because it focused the country's attention on poverty in an age of relative afflence. But OEO will not and cannot eliminate poverty in a decade - or in our lifetime - unless it becomes a part of an overall attack on poverty which must include equitable taxation, the raising of the minimum wage, the extension of income maintainence and social security programs, including comprehensive national health insurance, public works, a government-sponsored scholarship program and the raising of public welfare standards to levels above subsistance.

And on top of it all - it is important for have-families to relate themselves to have-not families, for father to make contact with father, for mother to make contact with mother, for children to make contact with children.

This is essential because, in the final analysis, only human beings can give warmth, understanding and set examples to other human beings. Government memos and IBM machines can't do it. This personal contact between have-families and have-not families can only be beneficial to both since we both live in the same world and must face, without condescension, prejudice and polyanna idealism, the realities around us.

In the final analysis, a community of half haves and half have-nots can only be a community in constant bitterness, hostility and turmoil.

(Applause)

SISTER AUSTIN: Thank you Mr. Perlis.

SISTER TUCKER: Made a plea for worth-while resolutions from this session.

SISTER AUSTIN: We have had a most enlightening and encouraging session and we will now recess for lunch.

(The Convention recessed at twelve noon, to reconvene at one-thirty p.m.).

WEDNESDAY AFTERNOON SESSION

September 15, 1965

The Wednesday afternoon session of the Convention convened at 1:30 p.m. with Sister Austin presiding as chairman,

SISTER AUSTIN: International President, International Officers, Visiting Friends and Sisters:

I feel highly honored today to greet you at this our Fourth Triennial Convention in the beautiful city of Chicago. The torch is passed. It calls for strength, faith, courage and prayer to meet the challenge of OUR FREEDOMS, The Eternal Flame.

If in days gone by it were enough to celebrate the Fourth of July by going to a picnic, attending a patriotic rally, shooting fire-crackers, saluting the flag or singing the Star Spangle Banner, that is not enough today.

On the Fourth of July we should ask ourselves, should we not if I play the role of a true American in this time of crisis, must I not find out just what that role demands of us? The United States has become a great world power. As such, it has been called, has it not, to discharge the responsibilities of world leadership?

Inasmuch as the United States is the sum total of all of us, is it not the duty of every citizen, regardless of sex, age, race or condition to bear himself or herself in such a manner as to act out this country's newest and greatest role? What does that role demand?.

Sister Austin's Speech continued

First of all: Perhaps, that each of us shall be informed. "But I haven't time to keep up with what's going on in the world." Some will object.

Do those objectors have time for baseball or golf, canasta, for racing or poker, for idle gossip, for joy riding? Do not a people who must play a leading part in world history need to know well not only their country and its people but something about other peoples, their history, their government, their way of life, their psychology, their physical and their emotional needs.

How for an instance can our own people arrive at an intelligent opinion about the Viet Nam, Red China and other foreign affairs challenged to play a noble role in world affairs? Americans need to open their eyes and their ears, their minds and their hearts to conditions in their own country that plead for their attention. Instead of reacting with hostility if anything within the borders of the United States should be criticized, should they not weigh that criticism dispassionately? We should not act like those touchy individuals who can not endure one word of comment that is not favorable.

We do have needledd social and moral evils that continue to exist because too many of us have lived up ot the religious principles we profess. If we have a sincere desire to win the confidence of people everywhere, their admiration and racketeering, to reduce the crime rate, to be more watchful of children that they shall not become drug addicts and to bring political corruption to a halt..

Reports of these conditions are extremely hurtful to our standing in the world at large.

A great people cannot breathe freely except in an atmosphere of freedom. On this day in September 1965 playing the role destiny seems to have assigned us demands that each one of us shall defend our freedom.

The Four Freedoms Want Fear.

The most of us know that through the Brotherhood of Sleeping Car Porters we have been able to survive economic Freedom, by the increase in wage from $49.50 to over $400.00 to day per month. If it were not for the economic program provided by the Brotherhood of Sleeping Car Porters under the leadership of A. Philip Randolph we might have been a race of poeple who suffered economic disaster. With the pace of this changing world, Freedom is not only wanted, but it is a necessity.

Sister Austin Speech continued

We must chow the world not only that we can talk about freedom and boast about it, but that we are determined to maintain it even though that should be at some cost to ourselves.

Although we should not even try to force upon reluctant peoples, unacquanted with democratic ideals our own system of government or our way of life superior as we believe it to be. There might come a time in the not too distant future when some peoples having watched us, should have a desire to accept our ideals. This is if we live up to them as we should.

All truly great men and women live according to the spirit of Noblesse Oblige, which mean a noble spirit, so should a great nation and that means so should every man, woman, youth and child living under the protection of its flag. It will not do for man to say that Noblesse Oblige is a fine idea and I approve of it for my neighbor but don't try to impose it upon me.

Why should not anyone be proud to live up the best instead of being content to be second, third, fourth or tenth best? Why should not each one of us feel inspired to add something however small to the lustre of American name.

Is this too difficult an assignment? All we have to do is to be loyal to the principles on which this republic was founded, to try to practice those sturdy virtues the founding fathers believed in. Who knows the fate of civilization may depend upon American courage, honor, industry, patience, true patriotic fervor and spiritual power.

Could a more appropriate day be chosen for us to meditate upon these things than this day September 13, 1965.

Today much has changed.

Today, more than 1,250,000 Negroes in the south are registered to vote. Congress has four Negro members, scores are in northern city councils and State Legislatures; others sit as judges.

Today, "Equal Justice under Law" is less of a slogan, more of a reality in the courts of the North and occasionally even in the South.

Industry and business now have members of Negro semi-skilled, technical and white-collar workers. The supreme Court has outlawed discrimination in travel, public schools,

Sister Austin's Speech continued

also public recreation has been banned. None of this progress came automatically or through the voluntary abandonment of cherished and favored privileges. It had to be fought for and won.

Since the historic victory in the Supreme Court decision of 1954 that established for all times equal rights of education for all. It has helped to provide the additional hope and courage needed for a stronger and more militant struggle for full equality everywhere.

There is much, very much still to be done. But it should not be forgotten that the NAACP first lit the torch which is now being carried by its spiritual sons and daughters and which will continue to be carried by us and by them until the final goal is reached.

In closing may I say "Thank you." To our National Officers, their presence at our National Meetings always serve as a source of inspiration to each of us. May God give you fortitude to carry on, as we work together for a bigger and better Organization. (Applause).

SISTER AUSTIN: We will now have the report of the Education Committee.

GERTRUDE ROSS, CHAIRMAN: We your Committee on Education, met and wish to make the following report:

We define Education as a key to the growth of the country.

Children are the most valuable resources of the United States.

Education again is the development of the mind.

The lighting of the Torch of Civilization the ability to vitilize knowledge to achieve a better way of life in our community.

It is not what our community can do for us, but what we can do for our community.

Begining with our family and our children and our responsibility to our community.

THINGS WE CAN DO:

Emphasize parents education.

Use scientific methods in working the parents.

Teach the value of money and how to use it.

Help through volunteer work by introducing recreational and social programs, health needs, spiritual needs. Respect for law and order. These and other builds the bridge to the Adult world.

Encourage the members to subscribe to and read some of the leading publications and news papers so that they might keep abreast of the current issues of the day.

Encourage parents to attend P.T.A. meetings.

Keep constant check on our children to see that they are not becoming "Drop Outs."

Educate our members to know the value of going to the polls, the value of voting, when to vote, who to vote for.

We the Ladies Auxiliary to the Brotherhood of Sleeping Car Porters, wish to go on record supporting the programs and the Great Society, introduced by President Johnson, Bill #10070.

Your Committee on Education:

Gertrude Ross, Chairman, Atlanta
Mamie Barnes, Secretary, Oakland
Lillian Jordan, Charlotte
Anna Canada, Portland
Annie Mae Taylor, Dallas
Elizabeth Craig, Washington
Mabel Jack (sit-in)
Berneta Verret, Chicago
Rosine McLemore, Chicago

Report accepted.

SISTER AUSTIN: We will now hear from Sister Minnie Lee.

SISTER LEE: I will now read the minutes of the Tuesday session.

It was moved and seconded to accept the reading of the minutes with the necessary corrections. Motion carried.

The corrections were: Rev. Mobley's initials were E. C. instead of M. C. The name of Sister Whitaker was left off the Cridential Committee and the total delegates were fifteen instead of ten.

The matter of obtaining letterheads was discussed, also the building of the Auxiliary Membership and reestablishing of the International Ladies Auxiliary was thoroughly discussed by Sister Gertrude Ross, Jane Green, Hortense Reese, Rosina C. Tucker, Rosine McLemore, Hortense Riley, Anna Taylor and Minnie A. Lee.

Thank you Sister Lee.

SISTER AUSTIN: It is indeed a pleasure for me to present to our Convention, one of our great female Judges, one of the distinguished citizens of Chicago and was one of the original supporters of the Brotherhood of Sleeping Car Porters. Judge Edith Sampson.

HON. JUDGE EDITH SAMPSON; (Judge, Circut Court of Cook County, Illinois): I am pleased to see so many women here present today. I have heard (and it sounds impossible) two hundred fifty cases today in the court house where I am housed and I am the black woman that gets seven hundred eighty-seven thousand votes to become a Judge.

I am here because I feel that Brother Randolph has influenced my life. Long before I ever dreamed of being a Judge, long before I ever dreamed of representing our country in the United Nations, I had a vested interest in the Brotherhood of Sleeping Car Porters. Negro women is the back-bone of the race.

I never had a brother or a father that was a sleeping car porter, nor a husband -- and I have had two of those (laughter), however, this was the man who taught me; this was the man that got me when I was young and tender and fine (laughter and applause), when what he was trying to do was to lift my vision.

This is the reason I insisted on coming here today. He did for me what we need to do for the hundreds and thousands of dropouts now to lift their vision, and so I am keeping my interest in the Brotherhood.

I am going to warn you about purchasing on-time and signing contracts etc. (Judge Sampson then went into a lengthy talk on buying on-time.)

(A standing ovation was thereupon extended to Judge Sampson.)

SISTER AUSTIN: Thank you Judge Sampson for your very inspiring and challenging talk. We are proud of you.

SISTER MOLLIE ALEXANDER of Chicago, announced the Reception will be held at 7:30 p.m. and urged all to attend.

Meeting was adjourned until 9:30 a.m. Thursday.

THURSDAY MORNING SESSION

September 16, 1965

Thursday Session of the Convention was convened at 9:30 o'clock with Sister Rosine McLemore, President of the Chicago Ladies Auxiliary calling the session to order.

SISTER MCLEMORE: We will now have the opening prayer by Rev. James C. May, Pastor Woodlawn Baptist Church.

Rev. May read psalm 13 and gave the invocation.

SISTER AUSTIN, Chairman: Declared the meeting opened for business and asked that we go right through in order to finish today as the International Brotherhood was closing their sessons.

Minutes of the Wednesday session was read by Sister Minnie Lee. A motion by Sister Boone and seconded by Helen Thomas was approved as read.

SISTER AUSTIN: May I present to you, Mrs. Maida Springer Kemp, International Representative of International Affairs Department AFL-CIO.

MRS. MAIDA SPRINGER KEMP:

THE LABOR MOVEMENT AND THE FAMILY

Madam Chairman, honored guests, members and friends, this is the second time I have been privileged to address the Women's Auxiliary of the Brotherhood of Sleeping Car Porters and it is a most fortuitous time in which we are meeting. Since our last meeting in New York, which was more than 15 years ago, the pressing issues of moral right, economic opportunity and social justice have come under great scrutiny in *country. During this long and difficult struggle for civil rights and equal job opportunity the citizens of this nation have had to engage in self-examination of the whole social fabric of American Society. As a result a number of exeellent laws are now on the Statute Books which indeed give hope for a "Great Society" for all Americans.*

One of the by-products of this self-examination was the Commission on the Status of Women. The late and revered President John F. Kennedy in appointing the commission on the Status of Women said: "We have by no means done enough to strenghten family life and at the same time encourage women to make their full contribution as citizens... It is appropriate at this time... to review recent accomplishments and to acknowledge frankly the further steps that must be taken. This is a task for the entire nation."

The final report of the Commission in 1963, an important social document is one with which I am sure all of you are familiar, is a guide-post and challenge to all of us to fulfill our potential.

In a population of 192 million plus, approximately 30 million are women and girls - the homemakers of today and tomorrow. You of the Women's Auxiliary have had a very special role as the wives, mothers, sisters and children of the Brotherhood members. Particularly in the early days when the struggle for union recognition seemed lost, you encouraged your men, helped to educate the community to better understand the workers' fight for decent standards, and respect for those who toiled with their hands. Those days are not so far removed that many of you in this room will not recall them. At a later period your cultural programs included educational activities, citizenship participation and fund raising activities for many worhty causes. These activities were important adjuncts for true labor responsibility and community representation. Good as this record has been, the times call for even greater effort to hasten our commitment for full citizenship in every phase in our country's life, nationally and internationally.

For the social ferment which has gripped the United States since World War II is not limited to the United States. It is world wide. The Post World War II revolutions in Asis and Africa have resulted in the independence of many hundreds of millions of people formerly colonial dependents of European countries. The largest group of nations being the new nations of Africa numbering some forty sovereign African states. The impast of this large assemblage of black men and women has been a source of inspiration and pride to many of us, and the black citizens of America have a significant role in the future peace of the world. This means that we must be prepared and that preparation begins in the family, with ideals, goals and examples set by the women in the family. Your opportunity to achieve meaningful citizenship in your lifetime is enhanced by our affiliation to the Brotherhood and more broadly to the AFL-CIO. Your respected and beloved President A. Philip Randolph, an affection and respect which I share, has been a tireless worker with his colleqgues in the AFL-CIO on all the labor supported legislation to eradicate injustice against working men and women generally and black men and women particularly wherever inequities exist.

The enactment of the Civil Rights and Voting Rights legislation are particularly meaningful to those of us who have and are still enduring discrimination. We can as union people, be encouraged and proud of the AFL-CIO's effective work in support of the passage of these corrective measures in the 88th and 89th Congress.

When the Civil Rights Bill was passed, I was in Geneva, Switzerland attending the 48th Session of the International Labor Organization, where 120 countries were assembled. On that July 4th the United States began to have more meaning as my country. The I.L.O., as you know, is a tripartite agency of the United Nations with representatives of government, labor and management. It is the oldest agency in the United Nations and began its functions after World War I in the League of Nations. Here again, labor's concern for and commitment to social justice was evidenced through the leadership of the then president of the AFL, Samuel Gompers, who championed the workers' case for representation in the League of Nations.

The 48th Session of the I.L.O., at which I was an adviser to the Workers delegate had on the agenda special questions concerning Women. This item grew out of consultation with women's organizations since 1959, one of which is the joint I.C.F.T.U/I.T.S. Consultative Committee on Women Workers questions. One of the five committees was on Women Workers in a Changing World and the subject matter with which we dealt was under the sub-title of Women Workers with Family Responsibility. The Committee composed of 90 members in these categories: 49 government representatives, 15 employers representatives and 27 workers representatives. For three weeks we discussed Women as Workers, Women with their Family Responsibilities, as well as the broader questions of Women as Workers and Potential Workers in a Changing World. There was constant reiteration that women should not be discriminated against because of their sex, and much emphasis was placed on the need

Maida Springer Kemp address continued

to campaign against prejudices, which are deeply rooted in public opinion thereby limiting their opportunity to contribute fully to the development of their society. Dozens of women representing hundreds of women's organizations from all over the world attended this conference as observers, and while they could not attend the working committee sessions they submitted resolutions, lobbied the delegates and were on call for discussion. These women represented some of the most influential and socially conscious opinions in the world. Their organizations ranged from International jurists to Kindergarten associations. The ultimate objective of the International Organization is to find ways and means in which men and women may work constructively at peaceful ways to create a better society.

Around the world the search is on to find better ways to live with our differences; in some cases it is color, in some it is nationality and in some it is sex. The quest is universal.

One of the most uncomprimising leaders in the quest for human understanding and dignity was your own late and great Vice-President, Milton P. Webster. He was relentless in his opposition to those who would attempt to relegate black men and women to second class citizenship and children to inferior status in the community. He was unyielding in his demand that we achieve excellence. We are familiar with the work he did on the early Fair Employment Practice Commission.

In 1947 President Truman's Committee on Civil Rights listed some of the goals as the attainment of four essential rights: The Right to Safety and Security of the Person; the Right to Citizenship and its Privileges; the Right to Freedom of Conscience and Expression and the Right to Equality of Opportunity.

Now in 1965, President Johnson's various legislative efforts are speeding our course toward full and equal American citizenship. You of the Women's Auxiliary have an obligation and an opportunity to work for the assurance of these goals. Milton Webster dedicated his life toward this end it would be a fitting monument to his life.

Again; my thanks and pleasure to have been able to share this time with you.

SISTER AUSTIN expressed the thanks of the Ladies Auxiliary to Mrs. Kemp for the profitable talk. (Applause).

SISTER AUSTIN: We will now have the report of the Resolution and Constitution Committee:

CHRYSTINE FORD; CHAIRMAN ON RESOLUTION AND CONSTITUTION COMMITTEE: We, your committee submit the following Resolutions for your correction, approval and adoption.

1. Be it resolved that the Ladies Auxiliary of the Brotherhood of Sleeping Car Porters deeply regret the illness of our Advisory Chairman, Sister Grace Rembert, which prevent her from attending this Fourth Triennial Convention held, September, 14 - 17th, 1965 in Chicago, Illinois. With our prayers and the doctor's care, we hope she will soon be up and about and able to join us.

2. Be it resolved that the Ladies Auxiliary go on recordin thnaking our Vice Chairman, Mrs. Elizabeth Austin, for the very capable way in which she has taken over the job of Presiding Officer in carrying on the duties and program of the Ladies Auxiliary, with the help of the International Officers and prayers of the members of this Auxiliary. Our best wishes for her continued success.

3. That this Fourth Triennial Convention of the Ladies Auxiliary wish to commend our very wonderful Brother A. Philip Randolph for his continued struggle for the continuation of this organization.

4. That every woman make it her business to read everything pertaining to labor.

5. That we interest ourselves more in the subject of Consumer Education. Find out to whom we should write for literature pertaining to this. That we become more concerned with subjects of truth-in-lending and truth-in-packaging.

6. That we continue the fight for integrated schools and housing.

7. That we recommend appreciation to those members of the various organizations who feel it their duties to participate in the great struggle that the races are having.

That we pay tribute to those who gave their lives to the cause of freedom and liberation of the Negro in the South.

8. That this Fourth Triennial Convention go on record as supporting the disaster arears in the South, which was recently brought about by the hurricane, with whatever aid in clothing, food, money, etc., we can make available.

9. That the immigration quota be reduced so that a lower percentage of immigrants be permitted to America. They come to America with the guarantee of employment suitable for their own maintenance, thereby taking pay which

Americans should receive.

This employment should be given Negroes and Whites who are already citizens.

There is a bill permitting 170,000 persons per year to come to America from foreign countries.

England has abolished her immigration permit to other countries so that Englishmen can have suitable employment. Why, can't America do likewise?

10. That all locals be encouraged to establish a scholarship fund to send a deserving boy or girl from the family of the Brotherhood of Sleeping Car Porters.

That each local set up its own standards for judging the qualifications of such students.

11. That the members of the various auxiliaries all parents to keep their children in school and help them realize the great need for getting an education.

12. Use every opportunity to see that the business with which we deal employ Negroes.

13. Urge everyone to register and vote.

14. Encourage as many women as we can to join the Ladies Auxiliary so we can have international re-established.

15. Resolve; that each delegate and all the members present return to our various communities and encourage out auxiliaries to make "personal contributions" to "community service," thereby, aiding and encouraging the less fortunate, doing what we can to help strengthen family life of those less fortunate in our neighborhoods and communities.

Resolve; that the Brotherhood of Sleeping Car Porters of the various cities encourage their wives, daughters and mothers to take an active part in the Organization.

16. That, we thank all those ladies who used their own private funds to pay their way to be with us at this Convention; who came out of love and devotion to an organization which they helped pioneer and build, and who realized how much and how highly we still value any contribution they make to the organization.

17. And lastly, but far from least, that this Fourth Triennial Convention wish to thank all of the members of the Ladies Auxiliary of the Chicago Division for a most wonderful time given the ladies of this Auxiliary. They have made us feel so welcome and have entertained us

so royally.

Respectfully submitted by the Committee on Resolutions and Constitution.

Chrystine Ford, Chairman (Wash. D.C.)
Rosina C. Tucker, Washington, D.C.
J. Esther Crawford, Denver, Colo.
S. D. Lester, New Orleans
Hortense Riley, St. Louis, Mo.
Rosine McLemore, Chicago, Ill.
Anna Canada, Portland
Gladys E. Slade, Washington, D.C.
Juanita Reese, Ft. Worth
Lucille Mickens, Chicago, Ill.
Daisy Gilbert, Chicago, Ill.
Helen Thomas, Chicago, Ill.
Beulah Alexander, Chicago, Ill.
Gardia Chevalier, Toronto, Can.
Bernita Verret, New Orleans
Annie Mae Taylor, Dallas, Texas

Sister Chairman, I move the Convention accept the report of the Committee on Resolution and Constitution for adoption.

SISTER ROSINA C. TUCKER: made a motion that the report coming from the Resolution and Constitution Committee be accepted. Sister Anna Canada: "I second the motion."

SISTER AUSTIN: It has been regularly moved and seconded that the report of the Committee on Resolution and Constitution be adopted. Are there any remarks? Hearing none, all in favor make it known by saying "Aye;" contrary, "No." The "Ayes" have it, and so it is ordered.

SISTER AUSTIN: We will continue with Report from Committees. We will now hear from the Organization Committee.

Sister Florence Ball-Jones, Chairman: Sister Chairman, Sister Delegates, your Organization Committee begs leave to submit the following recommendations:

1. The formation of a strong Community Service Committee in each Auxiliary, to alert our members of the many values offered by the various agencies that give us invaluable information of the many advantages offered by these agencies: Housing, Consumers Market, Medical Care, Social Security, etc.

Once explained, let us not be narrow in keeping this information to ourselves, but go into the neighborhood, giving aid that our families may be enriched.

2. Make personal contact with porters' wives and give them the advantage of knowing what is happening in the in the Railroad Industry.

Tell then when they ask what the Auxiliary has to offer, that it is important to think in terms of what they can do for the Auxiliary.

3. Sponsor some social as well as educational efforts in order to attract other women relatives to consider membership.

Submitted by Organization Committee

Florence Ball-Jones, Chairman
Pittsburgh, Pa.
Elizabeth Lucas, Secretary, New York
Georgia Boone, Jersey City, N.J.
Juanita Reese, Fort Worth, Texas
Anna M. Taylor, Dallas, Texas
Agnes Thornton, Chicago, Ill.
Margie Simmons, Chicago, Ill.
S. Avant, New York, N. Y.

It was moved, then seconded that the report coming the Organizing Committee be adopted. Motion carried.

SISTER AUSTIN: I am now glad to present to our Fourth Triennial Convention, Mrs. Elizabeth M. Ward, Field Representative, Social Security Administration.

MRS. ELIZABETH WARD: Thank you for inviting me to your Convention to address your group and to acquaint them with the 1965 Amendments to the Social Security Act.

Social Security is celebrating its 30th Anniversary this year. During its thirty years of existance the law has been amended many times. But the last ammendments signed by President Johnson on July 31, 1965, are by far the greatest social welfare measures to become law in the history of this country. Though the medicare provisions of the new law have made headlines, there were other changes of equal importance in which someof you ladies may be especially interested. Because my time is limited in which to tell you of the vase scope of the Social Security Program, I shall omit detailed discussion of the various types of benefits payable such as old-age, wife's, widow's, child's, parent's monthly benefits and the lump sum death payment. However, if any of you have any questions about these or anything else you wish clarified, feel free to ask during the question and answer period to follow.

The new law provided a 7% increase in cash benefits to all beneficiaries receiving monthly payments under social security. Moreover, the increase was made retroactive to

January 1, 1965. This month, beneficiaries will receive two checks, one in the regular amount and the other covering the difference between the old and the new rate for eight months, January thru August. Next month, October, they will receive their first check at the new rate for the month of September.

Workers who have been disabled for 12 full months may now qualify to receive a monthly disability insurance benefit check. It is no longer necessary that the disability be expected to last indefinitely or to end in death.

It may be of special interest to parents who receive benefits on behalf of their child until they reach age 18, to know that under the new law, payment of a child's benefits may continue to age 22, if the child remains a full time student in school.

Individuals 72 or over who could not qualify for social payments before because they did not work long enough may, nevertheless qualify for payments up to $35 a month now under the new provisions. These people are urged to contact the nearest Social Security office immediately.

Guess what? Payments may now be made to an aged divorced wife or widow if she had been married to her husband at least 20 years before the divorce and meets certain support requirements. What is more, a divorced wife or widow could remarry, even more than once, and still become entitled to benefits on her prior husband's work record, if the subsequent marriages ended.

A further provision permits both widow who remarried to have her benefits continued regardless of the remarriage. This also applies to a widower beneficiary. However, the continued benefit is reduced. If the new spouse is entitled to retirement benefits, thus entitling the remarried widow to wife's benefits on his earnings, she may get the reduced benefit on her former husband's work record, plus any excess money she is due as a wife on her new husband's Social Security beneficiaries can now earn up to $1500 a year without loss of any of their benefits, instead of up to $1200 as before. Regardless of how much is earned in a year, a beneficiary may be paid for any month in which he earns $125 or Less.

Before opening the discussion on Medicare, we have a question and answer period on what we have covered up to this point on the new amendments.

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MEDICARE

During 1964, hospital costs reached a new high of $41,00 a day. By far the greatest number of people needing hospital care were the ones, who because employers would not hire them could least afford the cost of hospital care. I, refer, of course, to people age 65 and over. Only about half of our 65 and over citizens have any health insurance at all. Of those who do, only one out of five have adequate coverage. Most policies for older people pay less than half today's hospital charges.

In addition to the high cost of hospital care, these same individuals owe large sums to the doctor, to say nothing of expensive fees for x-rays, diagnostic services and drugs. Now, how does Medicare help to relieve this situation.

1. The Social Security amendments of 1965 added to the Social Security Act, provisions for two related health insurance provisions.

A. A basic plan which provided protection against the cost of hospital and related care, and -

B. A voluntary supplemental plan which gives insurance protection against the cost of medical services not included in the basic hospital plan.

Effective July 1, 1966: Hospital Services. It is important to understand Medicare won't cover the full hospital bill.

The patient has to pay the first $40 of the first 60 days care. If he remains in the hospital over 60 days, during any spell of illness, he will have to pay $10 a day for each additional day he remains in the hospital up to 90 days.

It is the intent of the law to cover only active care intended to improve the patient's condition, (not custodial care). All the usual services normally provided in hospitals will be covered. For Social Security to pay anything, however, a physician must certify it was medically necessary to pay the patient in a hospital.

Now, let's consider an individual who has been discharged from the hospital but is still not able to take care o of himself. The next appropriate step after his intensive care in the hospital is - Post Hospital.

Elizabeth Ward address
continued

2. Extended Care: It may be necessary for a patient to contunue occupying a high cost hospital bed that could be freed for some patient now more acutely ill than he. But he may still need nursing care by, or under supervision of a professional nurse in a special wing of a hospital or a nursing home.

II. Voluntary Medical Insurance Plan

A. Provides protection against physicians and surgeons services, and other medical and health services not covered in hospital plan.

Effective 7/1/66
Enrollment 9/1/65.

Available to most persons 65 and over. Premium - $3.00 month

B. Physicians services

Benefits provided whether services furnished in hospital, clinic, office home or elsewhere.

The patient pays a $50.00 deductible amount, plus 20% of the remaining covered expenses. The plan will pay the other 80% of the cost of physicians, surgeons and medical expenses.

All persons 65 or over can not be covered under the Medicare Bill through a basic hospital plan and a supplementary insurance plan. You do not need to be retired to receive benefits under either of these plans.

If you will be 65 before January 1, 1966, you must enroll by March 31, 1966 deadline, otherwise you must wait until the fall of 1967 and pay a higher premium.

Remember do not cancel any hospital or medical insurance you may now have. The health insurance provisions of the new law give no protection until July 1, 1966.

(The members arouse and applauded.)

SISTER AUSTIN: I am sure the next speaker is no stranger to us, Brother Benjamin F. McLaurin, Eastern Zone Supervisor.

BROTHER MCLAURIN: Spoke on the needs of the Auxiliary and stated if the membership is enlargened the International could be set before another three years. He said, "the International Officers of the Brotherhood of Sleeping Car Porters should come in and give the Auxiliary information." He spoke of having a delegate at the National COPE Conference in Washington, D. C. on October 17 - 22.

Brother McLaurin held the election, which resulted as follows:

Chairman: Sister Grace Rembert, New York

Vice Chairman: Sister Elizabeth Austin,
Jacksonville, Florida

Secretary: Sister Chrystine H. Ford,
Washington, D. C.

The Chairman appointed Sister Rosina C. Tucker to represent the Auxiliary in Washington, D. C. on October 17 - 22 at the COPE Conference.

Brother McLaurin told of the Dewey Square in New York being renaimed - "Randolph Square."

SISTER AUSTIN: We will now have the Memorial Service.

A moment of silent prayer was said for the Sisters who passed since the last Convention.

A vase was placed on a table and as each deceased Sister name was called a white flower was placed in the vase in memory of the departed sister.

There were twenty in all from the various locals.

Sister, Anna Mae Taylor of Dallas, Texas, asked for a rising vote of thanks be given to the Officers for their services in the sessions and to the Chicago Local for their kind hospitality. All arose in thanks.

SISTER AUSTIN: As the Chairman, I now declare the Fourth Triennial Convention of the Ladies Auxiliary of the Brotherhood of Sleeping Car Porters adjourned.

(Whereupon the Fourth Triennial Convention of the Ladies Auxiliary of the Brotherhood of Sleeping Car Porters, assembled in Chicago, Illinois, adjourned at 4:00 P.M., September 16, 1966.)

IN MEMORIAM

MILTON P. WEBSTER

April 23, 1887 - February 24, 1965

1907-1925	Sleeping car porter in the employ of The Pullman Company
1925-1929	Founder, with A. Philip Randolph and others, of the Brotherhood of Sleeping Car Porters, becoming one of its organizers
1929-1936	General Organizer in Chicago, Brotherhood of Sleeping Car Porters
1929-1965	President, Chicago Division, Brotherhood of Sleeping Car Porters
1936-1965	First International Vice President, Brotherhood of Sleeping Car Porters
1937-1965	Delegate to Chicago Federation of Labor and Industrial Union Council
1937-1965	Delegate to Illinois State AFL-CIO
1942-	Member, President Roosevelt's Fair Employment Practice Committee
1964-1965	Member, President Johnson's Labor Advisory Council

Through his outstanding record of intelligent and devoted service to the cause of organized labor and his effective work in the field of civil rights long before this activity assumed the status of a "movement," MILTON P. WEBSTER, our brother and colleague, shall always be remembered, not only as a leader of railroad labor, but as a true servant of working men and working women throughout the nation and the world.

In Memory of our Fallen Warrier
Milton P. Webster, First International
Vice President and Chairman of the
International Executive Board
Brotherhood of Sleeping Car Porters

Inspired, enriched and ennobled by the dynamic personality, commanding mentality, rare wisdom and active and constructive life of our brother, Milton P. Webster, to build a bigger and better Brotherhood of Sleeping Car Porters to protect and advance the interests and rights of the porters, attendants and dining car employees, members of the Brotherhood, we have assembled here today to pay homage, respect and honor, love and affection to him, as a great trade union leader, a great American, and a great human being.

He labored tirelessly in the vineyard of the working class to achieve a better life for the porter in particular, and the workers in general.

He was devoted and dedicated to the Brotherhood of Sleeping Car Porters and the cause of trade unionism as represented by the American Federation of Labor and Congress of Industrial Organizations.

All of his associates were fully conscious of the fact that he was a tower of strength, in the union hall; while pleading the case of a porter before the National Railroad Adjustment Board, where his record of victories was second to none; in hearings for settlement of grievances or claims; in the conference room negotiating contracts; and while he served as a member of the Commission of Fair Employment Practice during the administration of the late Franklin Delano Roosevelt, when he relentlessly fought the battles of the Negro worker against race bias in unions, industry and government.

And of the highest importance and significance, his life and work will serve as a symbol of inspiration and identification for Negro youth today and generations to come.

We bow in reverence for the role of his leadership of the black workers which history placed upon his broad and strong shoulders.

May God bless, guide, direct, sustain and keep his fine family and give them happiness, solace and peace.

Sunset and evening star,
  And one clear call for me'
And may there be no moaning of the bar
  When I put out to sea,

But such a tide as moving seems asleep,
  Too full for sound and foam,
When that which drew from out the boundless deep
  Turns again home.

Twilight and evening bell,
  And after that the dark'
And may there be no sadness of farewell,
  When I embark;

For though from out our bourne of Time and Place
  The flood may bear me far,
I hope to see my Pilot face to face
  When I have crossed the bar.

* * * *

Thou'rt gone; the abyss of heaven
  Hath swallowed up thy form; yet on my heart
  Deeply hath sunk the lesson thou hast given
And shall not soon depart.

He who from zone to zone
  Guides through the boundless sky thy certain flight
  In the long way that I must tread alone
Will lead my steps aright.

He has passed on to the Parthenon of Great Men

Poems: Alfred Tennyson and William Cullen Bryant

INTERNATIONAL ADVISORY COUNCIL

ELIZABETH AUSTIN
1st Vice-Chairman
402 West 19th Street
Jacksonville, Florida

The Ladies Auxiliary
TO THE
BROTHERHOOD OF SLEEPING CAR PORTERS
TRAIN, CHAIR CAR, COACH PORTERS and ATTENDANTS

MINNIE A. LEE
Secretary
6013 Calumet Avenue
Chicago, Illinois

AN INTERNATIONAL UNION
Affiliated with the AFL-CIO/CLC

GRACE REMBERT, International Chairman
217 West 125th Street - Suite 301
New York, N.Y. 10027
Phone: MOnument 2-5080
440

June 1, 1965

TO THE PRESIDENTS AND SECRETARY-TREASURERS
OF THE LADIES AUXILIARY OF THE
BROTHERHOOD OF SLEEPING CAR PORTERS

CONCERNING NOMINATION AND ELECTION

Dear Friend and Sister:

The Convention of the Ladies Auxiliary to the Brotherhood of Sleeping Car Porters will be held in Chicago, Illinois at the Del Prada Hotel, 5307 Hyde Park Boulevard, September 14 to 17, the day after the opening of the convention of the Brotherhood.

The nomination of officers of the local auxiliaries and delegates to the convention should be held during the month of June as is the general custom.

The election of officers of the local auxiliaries and delegates to the convention should be held during the month of July.

In the near future you will be receiving further communication from me.

Fraternally yours,

Grace Rembert

Grace Rembert, Chairman
International Advisory Council

GR:mr

July 6, 1965

Fourth Triennial =3

CALL 4

TO THE ~~THIRD~~ CONVENTION OF THE LADIES AUXILIARY 58
BROTHERHOOD OF SLEEPING CAR PORTERS 3J
SEPTEMBER 14 - 17, 1965 23

TO THE OFFICERS AND MEMBERS
OF THE LADIES AUXILIARY, B.S.C.P.

Dear Friends and Sisters:

This is a Call to the ~~Third~~ Fourth Triennial Convention of the Ladies Auxiliaries to the Brotherhood of Sleeping Car Porters by the International President of the Brotherhood and the Provisional Advisory Council of the local ladies auxiliaries to the Brotherhood which will be held in Chicago, Illinois, Tuesday through Friday, September 14 - 17, 1965.

This convention will be concerned with continuing the rebuilding and redevelopment of the Provisional Advisory Council of the Ladies Auxiliary to the Brotherhood of Sleeping Car Porters which was set up by the National President of the Brotherhood and International Counselor of the Ladies Auxiliary to maintain some organic structure of the auxiliaries to provide a basis of communication and contact among the officials and members of the local auxiliaries, looking forward to the day when the International Ladies Auxiliary would be reestablished.

The convention will be called to order by Sister Grace Rembert, National chairman of the Provisional Advisory Council to the Brotherhood of Sleeping Car Porters.

The first order of business will be an address to the convention by Sister Grace Rembert who will serve as ~~temporary~~ PERMANENT Chairman. She will be introduced by Sister Minnie A. Lee, National Secretary of the Provisional Advisory Council and President of the Chicago Ladies Auxiliary. After the address of the ~~temporary~~ PERMANENT chairman a brief address will be made by International President A. Philip Randolph, ~~followed by the election of a permanent chairman.~~

CONVENTION DELEGATES

Each local auxiliary will be entitled to at least one delegate, but any member of the local auxiliary is eligible to attend the Convention as an observer with the privilege to enjoy all entertainment.

Each Auxiliary shall be responsible for defraying the expenses, including transportation and maintenance, of its delegate or delegates. Any member of a local auxiliary attending the Convention shall be responsible for defraying her own transportation and maintenance expenses to and from the Convention and while at the Convention.

CREDENTIALS

Delegate credentials and duplicates will be sent to the local auxiliaries. The original credential should be returned to Acting International Secretary-Treasurer, W. H. Bowe, at the international headquarters of the Brotherhood of Sleeping Car Porters, 217 West 125th Street, New York, N. Y. 10027, by August 16, 1965. The duplicate credential is to be presented to the Convention of the Ladies Auxiliary in Chicago upon the arrival of the delegate.

A member of the local auxiliary who desires to attend the Convention of the Ladies Auxiliary will receive a Member Credential, to be presented upon arrival at the Convention as an evidence of her being in good standing as a member of ~~the~~ her local Auxiliary.

REGISTRATION OF DELEGATES AND OBSERVER MEMBERS

The official headquarters of the Ladies Auxiliary Convention will be at the Del Prada Hotel, 5307 Hyde Park Boulevard, Chicago, Illinois. All delegates are required to register at the official headquarters upon arrival to receive convention badges, programs and general instructions.

HOUSING

All delegates and members of the local auxiliaries who plan to attend the Convention should communicate with the president of the Chicago Division Ladies Auxiliary, Mrs. Minnie A. Lee, c/o Brotherhood of Sleeping Car Porters, 3947-59 Drexel Boulevard, 2nd floor, Chicago, Illinois 60653, and indicate hotel accommodations desired. There are $9.00 for a single rooms and $12.00 for a double Room,

ENTERTAINMENT

The delegates and members to the Convention will be informed of entertainment planned for them and they are invited to participate in the general entertainment activities provided by the Convention of the Brotherhood of Sleeping Car Porters.

PUBLIC LABOR EDUCATION MEETING

Delegates and members of the Ladies Auxiliary who plan to attend the Convention should plan to arrive in Chicago in time to participate in the WEBSTER MEMORIAL ~~Public Labor Education~~ Meeting which is scheduled to be held, Sunday afternoon, September 12, 1965 - - - - - - - - - - - - - - -

AUXILIARY PIONEERS

Although Sisters Halena Wilson, international president emeritus~~, and~~ However, Sister Rosina C. Tucker, international secretary-treasurer emeritus~~,~~ may attend. will not be able to participate in the Convention on account of illness~~, and lack of convenience~~, the delegates and members in appreciation of their great service and constructive and sound leadership salute them and extend to them greetings, felicitations and good wishes for a long and happy life. When the history of labor in the United States is written, especially with reference to workers of color, ~~theri~~ their names, together with all of the members and officials of the Ladies Auxiliary who have worked and struggled to build the movement, will stand out as beacon lights for the workers of coming generations.

Fraternally yours,

Grace Rembert, National Chairman
Provisional Advisory Council of
the Ladies Auxiliary to the BSCP.

M - Rodwell

A. PHILIP RANDOLPH
International President

MILTON P. WEBSTER
1st International Vice-President
3947 Drexel Boulevard
Chicago 53, Illinois

BENNIE SMITH
2nd International Vice-President
1308 Broadway, Room 305
Detroit 26, Michigan

BROTHERHOOD of SLEEPING CAR PORTERS
Train, Chair Car, Coach Porters and Attendants
AN INTERNATIONAL UNION
Affiliated with the AFL-CIO/CLC

217 WEST 125th STREET - Room 301
NEW YORK 27, N. Y.
MOnument 2-5080 - 1
440

ASHLEY L. TOTTEN
International Secretary-Treasurer

C. L. DELLUMS
3rd International Vice-President
1716 Seventh Street
Oakland 20, California

T. D. McNEAL
4th International Vice-President
2906a North Union Boulevard
St. Louis 15, Missouri

B. F. McLAURIN
Eastern Zone Supervisor

June 8, 1962

TO THE PRESIDENTS AND SECRETARY-TREASURERS
OF THE LADIES AUXILIARY TO THE
BROTHERHOOD OF SLEEPING CAR PORTERS

Chicago Ill.

CONCERNING THE COMING CONVENTION OF THE LADIES AUXILIARY

Dear Friend and Sister:

The convention of the Ladies Auxiliary to the Brotherhood of Sleeping Car Porters will be held in Montreal, Canada during the second week in September, beginning the day after the opening of the convention of the Brotherhood.

DELEGATES

All ladies auxiliaries throughout the country are expected, requested and required to send a minimum of one delegate and as many delegates or observing members as may be willing to defray their own expenses to attend the convention.

NOMINATION OF OFFICERS

The nomination of officers of the local auxiliaries and delegates to the convention should be held during the month of June as is the general custom.

ELECTION OF OFFICERS

The election of officers of the local auxiliaries and ~~Sept~~ delegates to the convention should be held during the month of ~~July~~.

Will 1965

CONSTITUTION

The constitution of the Ladies Auxiliary which has governed its life and work since its formation is still the bona fide and valid constitution for the government of the Auxiliary.

REESTABLISHMENT OF INTERNATIONAL

The international structure of the Ladies Auxiliary will be reestablished at the convention in Montreal. The international officers and an International Executive Board will be elected. There will be no paid officers of the international organization inasmuch as there are no available funds or adequate sources of income to sustain paid officers.

PROVISIONAL ADVISORY COUNCIL OF THE LADIES AUXILIARY

Following the disestablishment of the International Ladies Auxiliary, the international president of the Brotherhood and international councelor of the Ladies Auxiliary, in order to establish and maintain some form of the spirit of sisterhood and the Brotherhood's philosophy, as well as to help maintain some basis of international unity among the ladies auxiliaries of the various divisions, set up what is known as the Provisional Advisory Council of the Ladies Auxiliary for the purpose of carrying out the aforementioned aims.

Under this Provisional Advisory Council of the Ladies Auxiliary three delegates, consisting of Sisters Grace Rembert, president, New York Division Ladies Auxiliary, Minnie Lee, president, Chicago Division Ladies Auxiliary and Elizabeth Austin, president, Jacksonville Division Ladies Auxiliary, were chosen by the international counselor to attend the convention of the Ladies Auxiliary to the AFL-CIO which was held in Miami Beach, Florida in ~~last~~ December, 1961.

This experience for the delegates of the Ladies Auxiliary to the Brotherhood was extremely valuable, and enabled them to establish association and communication with the Ladies Auxiliary to the AFL-CIO. Our delegates participated in the deliberations of the convention, having been appointed to various committees. Besides, they took the floor and expressed their opinions on the various subjects appearing before the convention.

This was the first time that Negro women labor delegates from a ladies auxiliary to a trade union under Negro leadership, or any form of leadership, ever attended the convention of the Ladies Auxiliary to the AFL-CIO.

This contact between the Brotherhood sisters and the white sisters from the various trade unions throughout the nation not only helped to give our delegates a new insight into the great labor movement and fundamental education, but also helped to educate the white sisters into the realization of the part which Negro workers, both men and women, can play and are playing in helping to build the American labor movement for the advancement of the cause of all *workers, regardless of race, religion, color, national origin or ancestry.*

BROTHERHOOD AUXILIARY AFFILIATE WITH AFL-CIO AUXILIARY

Aware of the fact that the Brotherhood of Sleeping Car Porters is affiliated with the AFL-CIO with a view to being a part of the broad, organized labor movement, the international counselor and International Executive Board of the Brotherhood realized the necessity and ***value*** *of the Ladies Auxiliary to the Brotherhood becoming a part of the Auxiliary to the AFL-CIO in order that our sisters may play their role in helping to build a bigger and better organized labor movement for workers, both black and white.*

It was in the light of this logic that the ladies auxiliaries all over the nation are affiliated with the AFL-CIO Ladies Auxiliary. There are still some Brotherhood auxiliaries that have not yet become affiliated with the AFL-CIO Ladies Auxiliary.

ASSESSMENT

Under the present arrangement of affiliation of local auxiliaries to the Brotherhood with the AFL-CIO Auxiliary, the tax paid is three cents per member. However, since the Brotherhood Auxiliary will affiliate with the AFL-CIO Auxiliary on the basis of an international auxiliary, following our convention in ~~Montreal~~, the tax will then be one cent per member. Chicago

INTERNATIONAL AUXILIARY TO AFFILIATE WITH AFL-CIO AUXILIARY

The advantage of being an international auxiliary affiliated with the AFL-CIO is just the same as being an International Brotherhood of Sleeping Car Porters division affiliated with the AFL-CIO, instead of the old federal locals of sleeping car porters being affiliated with the AFL-CIO.

The status of the delegates of an International Auxiliary to the Brotherhood of Sleeping Car Porters will carry with it more prestige and influence since most of the delegates to the Auxiliary of the AFL-CIO come from international and national trade unions.

The Brotherhood's Ladies Auxiliary can play a fundamental, constructive and progressive role in the AFL-CIO Auxiliary inasmuch as the Brotherhood sisters will be in contact with delegates from trade unions covering the entire nation who have varied and various experiences.

CITY CENTRAL LABOR UNION AUXILIARY

There will also be established a City Central Labor Union Auxiliary organization to which various local auxiliaries will be free to send delegates just as the local unions and international unions send delegates to the Central Trades and Labor Councils of *the AFL-CIO which are located in various cities throughout the country.*

Whereas this form of structure of the Ladies Auxiliary to the AFL-CIO has not yet been established, it is a part of the ultimate pattern of organization.

STATE LADIES AUXILIARY BODIES

Just as there will be city central local auxiliaries, there will also eventually be established a State Federation of Ladies Auxiliaries comparable to the State Federation of the AFL-CIO, comprising affiliated local unions of the respective national and international unions in various States of the country.

TEMPORARY FUNCTION OF THE PROVISIONAL ADVISORY COUNCIL OF THE LADIES AUXILIARY

At the convention in Chicago *~~Montreal~~, Sister Grace Rembert, chairman of the Provisional Advisory Council, will call the convention of the Ladies Auxiliary together as the temporary chairman of the convention. Then the procedure will be for the convention to nominate and elect a permanent chairman of the convention.*

The next step will be the organization of the convention and assignment of delegates to committees by the permanent chairman. The committees will proceed to work, following addresses to the convention by the international president of the Brotherhood, the international counselor of the Ladies Auxiliary and other officers of the Organization.

The convention of the Auxiliary will last for two or 4 days *~~three days according to how the work proceeds~~, but the sisters will be expected to remain and participate in the activities and affairs of the convention of the Brotherhood which have been planned by Convention Committee under the direction of ~~Brother Bennie Smith, Second International Vice President~~ and ~~Brother A. R. Blanchette, International Field Representative~~, and the local Convention Committee of the ~~Montreal~~ Division which will be under the immediate direction of ~~Brother Blanchette~~.*

ENTERTAINMENT

No doubt, the Provisional Advisory Council of the Ladies Auxiliary, together with the sisters of the local auxiliary in ~~Montreal~~, will plan entertainment for the delegates of the Auxiliary some time during the convention.

The place where the convention will be held will be announced later and information thereon sent to the various local auxiliaries of the Brotherhood.

LADIES AUXILIARY

TO THE

BROTHERHOOD OF SLEEPING CAR PORTERS

4th TRIENNIAL CONVENTION

DEL PRADO HOTEL
5307 Hyde Park Boulevard
Chicago, Illinois

September 14 - 17, 1965

TUESDAY, SEPTEMBER 14

REGISTRATION - Saturday and Sunday

OPENING SESSION: 9:00 A.M. - 12 NOON

Call to order of the Convention by President of Chicago Division Local Ladies Auxiliary - Sister Rosine McLemore

INVOCATION:

Rev. Emmitt C. Mobley, Assistant to the Pastor of Greater St. John Baptist Church

Introduction of Local Civic Representatives - for brief Greetings.

Introduction of Delegates.

Introduction of Sister Grace Rembert, Permanent Chairman, by Sister Minnie A. Lee, former President, Chicago Division Ladies Auxiliary.

Keynote Address: Sister Grace Rembert, Chairman International Advisory Council.

Report of Brotherhood of Sleeping Car Porters Delegates of the Ladies Auxiliary who participated in the seminar "Leadership Training Institute" for AFL-CIO National Auxiliaries and Affiliated Union Auxiliaries in Boulder, Colorado, by Sister Minnie A. Lee, International Advisory Council, Secretary.

Address: Mrs. Marcella S. Beatty, Executive Director, AFL-CIO National Auxiliaries.

Appointment of Committees

- *(a) Credential*
- *(b) Rules*
- *(c) Resolutions and Constitution*
- *(d) Organization*
- *(e) Education*

Adjournment.

TUESDAY AFTERNOON - BUS TOUR - 2:30 P.M. from the HOTEL

WEDNESDAY, SEPTEMBER 15

INVOCATION:

Rev. J. Archie Hargraves, United Church of Christ, Director of Mission Development for the Urban Training Center for Christian Mission.

Financial Report by William H. Bowe, Acting International Secretary-Treasurer, Brotherhood of Sleeping Car Porters and Acting Secretary-Treasurer of the Ladies Auxiliary.

Report of Credential Committee
Report of Rules Committee

Address: Leo Perlis, Director, Community Service Department AFL-CIO.

Resumption of work of Committees

Adjournment.

AFTERNOON SESSION: 1:00 P.M. to 4:00 P.M.

Address: A. Philip Randolph, International President, Brotherhood of Sleeping Car Porters and Counselor of the Ladies Auxiliaries.

Report of Committees.

Address: Honorable Edith S. Sampson, Judge Circuit Court of Cook County, First Municipal District.

Resumption of Work of Committee.

ADJOURNMENT.

WEDNESDAY EVENING - RECEPTION IN THE HOTEL.

Program continued

THURSDAY, SEPTEMBER 16

MORNING SESSION: 9:00 A.M. - 12 NOON

INVOCATION:
Rev. James C. May, Pastor Woodlawn Baptist Church

Address: Mrs. Maida Springer Kemp, International Representative of International Affairs Department, AFL-CIO.

Report of Committees

Address: Mrs. Elizabeth M. Ward, Field Representative, Social Security Administration.

ADJOURNMENT.

AFTERNOON SESSION: 1:00 P.M. - 4:00 P.M.

Address: Benjamin F. McLaurin, Eastern Zone Supervisor, Brotherhood of Sleeping Car Porters.

Memorial Services for Deceased Members of the Local Auxiliaries.

ADJOURNMENT.

FRIDAY, SEPTEMBER 17

MORNING SESSION: 9:00 A.M. - 12 NOON

INVOCATION:
Rev. Jonathan A. Dames, Pastor, Woodlawn A.M.E. Church

Election of Officers

Visit of Brotherhood Officials to the Ladies Auxiliary Convention.

ADJOURNMENT.

MUSICIAN - Sister Rosina C. Tucker, Secretary-Treasurer Emeritus, Ladies Auxiliary, Brotherhood of Sleeping Car Porters.

ASA PHILIP RANDOLPH

SUBJECT FILE

BROTHERHOOD OF SLEEPING
CAR PORTERS,
Ladies Auxiliary
5th Triennial/Convention

Sept. 1968

-Know Ye The Truth and the Truth Shall Make You Free-

REPORT OF BUSINESS TRANSACTED

by the

FIFTH TRIENNIAL CONVENTION

upon the

FORTY SECOND ANNIVERSARY

of the

LADIES AUXILIARY

to the

BROTHERHOOD OF SLEEPING CAR PORTERS

An International Union
Affiliated with the American Federation of Labor
and Congress of Industrial Organization
and the Canadian Labour Congress

Held at
The Hotel Roosevelt
NEW ORLEANS, LOUISIANA
September 2nd to 4th, Inclusive
1968

OFFICERS
# of the
LADIES AUXILIARY
to the
BROTHERHOOD OF SLEEPING CAR PORTERS

A. Philip Randolph, New York	International Counselor
William H. Bowe, New York	International Secretary-Treasurer
Halena Wilson, Chicago	International President Emeritus
Rosina C. Tucker, Washington	International Secretary-Treasurer Emeritus
Elizabeth Austin, Jacksonville	Chairman, Advisory Council

Mignonette Rodwell	Convention Secretary
Mildred Smith	Convention Sergeant-at-Arms

LADIES AUXILIARY
To The
BROTHERHOOD OF SLEEPING CAR PORTERS
103 EAST 125TH STREET, SUITE 710
NEW YORK, N. Y. 10035

PROCEEDINGS OF FIFTH TRIENNIAL CONVENTION OF THE LADIES AUXILIARY, BROTHERHOOD OF SLEEPING CAR PORTERS, HOTEL ROOSEVELT, NEW ORLEANS, LOUISIANA, SEPTEMBER 2nd TO 4th, INCLUSIVE, 1968.

MONDAY MORNING

SEPTEMBER 2, 1968

The Fifth Triennial Convention of the Provisional Advisory Council of the Ladies Auxiliary to the Brotherhood of Sleeping Car Porters convened in the Gold Room of the Roosevelt Hotel, New Orleans, Louisiana with Sister Carrie Lawson, Local Chairman of the New Orleans Division presiding.

SISTER LAWSON: *Greetings. We the members of the New Orleans Ladies Auxiliary welcome you here. We are happy to have you and hope you will enjoy yourselves to the extent that you will return and spend your vacation in New Orleans.*

Will you please stand and we shall sing THE NATIONAL ANTHEM and THE BROTHERHOOD MARCHING SONG.

Reverend Upton, of New Orleans, will give the invocation:

REVEREND UPTON: *Heavenly Father, I ask thy blessing on this gathering. They have traveled from far and near and I thank you for their safety. Help them to work together for this kingdom on earth and I pray for their guidance through Jesus Christ our Lord.*

SISTER LAWSON: *Thank you very much Reverend Upton. I am now asking, Sister Lester, former President of the New Orleans Division to introduce the Chairman of the Fifth Triennial Convention.*

SISTER LESTER: *International Counselor Randolph, Delegates, Visitors and Friends. The lady I am about to present to some and introduce to others, is a native of Jacksonville, Florida, was educated in the schools there, also attended Cookman Institute and*

Boylan Haven School for girls.

She has been working with the Auxiliary for more than twenty-five years and served as President for fifteen years.

She is a member of Ebenezer United Methodist Church. She is a Daughter Elk an Eastern Star and many other Civic Organizations. She attended several AFL-CIO conventions and the First National Institute which was held in Colorado, at the Colorado University.

She served as Vice Chairman under the late Sister Rembert of New York, who was the Chairman of the Provinsional Council.

So I present to you Sister Elizabeth Austin, who was appointed Chairman by Brother Randolph in 1961.

Sister Elizabeth Austin, Chairman of the Provinsional Council of the Ladies Auxiliary to the Brotherhood of Sleeping Car Porters, AFL-CIO.

SISTER AUSTIN: Thank you Sister Lester. (Applause)

It is with a great deal of pleasure that I extend warm and fraternal greetings to the officers, delegates and members of our Fifth Triennial Convention of the Ladies Auxiliary to the Brotherhood of Sleeping Car Porters.

It is an honor for me to serve this wonderful organization. The Ladies Auxiliary to the Brotherhood of Sleeping Car Porters came into being in August, 1925 in New York City.

The aim of the auxiliary was to unite the families of the members of the Brotherhood of Sleeping Car Porters - to promote and advance their welfare, economically, socially, morally and intellectually. Also, to encourage and stimulate their interest in all matters pertaining to the good progress of the Brotherhood of Sleeping Car Porters.

We have looked forward to this visit to your city for some time. New Orleans is the largest city in Louisiana, it is in the southern part of the United States located on both sides of the Mississippi River, 107 miles from its mouth, built originally in the bend on the left side of the river. It was first called Crescent City. It is protected by the great Levees from the overflow of the river. It is divided into the American and French quarters. The French language and customs still rule. Here dwell the creole families. The annual Mardi Gras Festival is as unique as it is magnificient. New Orleans is the seat of the United States Mint, and of Tulane University.

Now, I will speak to you on the role of women in the labor movement.

It is as vital today as it was when the first auxiliary was formed to help men fight for a better way of life. The responsibilities of that role is much greater today. Thousands of women in trade union families have never heard the message. We will have to help every trade union's wife, mother, sister and daughter to realize that the benefits of strong effective unions flow directly into their homes and into their communities.

We will have to prove to them that they have a responsibility to help win and protect those benefits. Education, registration and political work are good examples. The women in union families should be involved in political work.

The traditional role of women as wives and home makers should put them right beside their husband's union, in the battle to safeguard and expand the rights of American consumers. By far the greater part of the wages that our men earn is used for food, clothing and all the other things that it takes to make a home and raise a family. In almost every case it is the women in the family who has to make these wages stretch to meet the family needs.

We as wives, mothers, sisters and daughters in the homes of organized labor should appeal to all women to encourage our young people to go back to school and continue their education, at least through high school, and as far beyond, as their resources will permit. Today belongs to the educated and trained. Tomorrow the demands for skills will be even greater. Education today means jobs and security in the future. One important factor remains in all of our organizations, and that is we are continually confronted with two things, they are membership and money.

Whenever our auxiliaries of labor can get the wives, mothers, daughters and sisters of union members to realize how important organized membership is to them personally and to their families and what could be accomplished then and only then will we ever realize this important force that we could be, if we could get that much needed help to carry on the work that needs our full support, we could accomplish our ultimate goal.

This is never ending struggle for all of us in auxiliaries. Our commitments won't mean a thing unless we fulfill the resolutions of our conventions.

We have to take them with us to our homes and our families, to our neighborhoods and communities, for it is there that we have to make our commitments work. Never in our history has the critical importance of a college education been emphasized as much as now. Never have both employers and educators told us so loudly and persistently that a college is a virtual necessity for just about any decently paying job with any kind of future.

Half of the young Americans who received high school diplomas this year will not be going to college. They will instead be shopping for permanent careers, extra training in trade or business schools, or making plans to fulfill their military obligations. If, you the high school graduate or you his or her parents, are now discussing a career, study the full range of opportunities. Look beyond a big beginning paycheck for a job offering training in a field which interest you. Choose a job which leads somewhere you really want to go. The world is waiting and needs young men and women to take the responsibilities and courage of Mr. A. Philip Randolph and the late Mr. M. P. Webster. So let us as members of the Ladies Auxiliary, keep up the work that our union will continue to grow until every goal that we fight for will be realized. (Applause)

At this time it gives me a great deal of pleasure to present to you, Brother Randolph, our, International Counselor.

BROTHER RANDOLPH: Thank you, Sister Austin.

Sisters and Brothers: I am delighted at seeing such a large number of sisters today, and I am especially glad to see Sister Tucker, founder of the Ladies Auxiliary, and Brothers Gregory and McLaurin.

I've been a little under the weather, but I'm feeling fine, particularly now when I have the opportunity of seeing you and talking with you.

The Brotherhood of Sleeping Car Porters has come a long way, a long way indeed. When the Brotherhood was established and became an indissoluble part of organized labor and of the Negro community, Pullman porters were receiving $67.00 a month. Today, porters on Pullman cars and on the various railroads receive a minimum wage of approximately $500.00 and work 174 hours a month.

Employees on almost all the railroads with which we have contracts enjoy fringe benefits covering four weeks' vacation for employees of twenty years standing, eight paid holidays, and hospital and medical insurance through Travellers Insurance. Porters receive a pension and their wives half pension. The union and the union alone is responsible for these gains. Our collective strength, our integrity, our dedication to the improvement of our workers has earned us not only these material benefits but the respect and the admiration of the labor movement and of the Negro community.

The economic future of the railroads is uncertain but not hopeless. I am not worried about our workers, I have confidence in their collective strength and in their collective wisdom. They have triumphed over steeper obstacles in the past, and I am confident that they will triumph over any and all obstacles in the future.

What does worry me is the young people of today. I am deeply concerned about them and their future. I am worried about young people mindlessly rioting in the streets, throwing bottles and bricks and Molotov coctails aimlessly about, setting stores and buildings afire. Riots are not a revolution. They may be the by-products of revolution, but they are not revolution. They are the wanton and senseless acts of the lumpenproletariat, the unorganized, the untrained, the people without aim or defined purpose. Riots may generate not revolution but counter-revolution, and may bring about the victory of the most reactionary forces in society.

Violence will get people nowhere. It can only breed more and more violence. Running up and down the streets can hardly be regarded as a creative activity or as an adequate preparation for the serious task of building a civilization.

The young people who are engaging in mindless and wanton violence are generally without skills, without the training necessary for assuming a creative role in society. They are the products of home without discipline, of families without fathers. Children must be raised in their homes, not on the streets. They must receive adequate care and nutrition in their homes, and they must acquire habits of self-discipline that will enable them to become self-respecting human beings. They cannot take narcotics and hope to become masters of their destiny. Instead of achieving freedom, they are becoming slaves to drugs. They are becoming dehumanized, creatures without dignity. The white man can be blamed for agreat deal, but not for everything - not for a laxness in the family, not for loss of self-discipline, not for drug addiction. As men and women, as human beings, we must assume responsibility for ourselves, we must learn to stand on our own feet, and we must be able to look at the world unashamed, proud, self-confident in the knowledge that we have a creative role to play and that we can and will make a significant contribution to the Negro community and to the wider national and world community of which it is a necessary and vital part.

The P-1 men have a scholarship fund for annual scholarship awards. That is the way to achieve what we all want - to learn all that we can, to take advantage of all cultural resources, to elevate our intellectual and moral standards, to acquire all the skills that we can.

I congratulate you. You are doing a fine job. I am proud of every sister and brother. In forty-three years we have come a long way. But we have a long way still to go. There is much to be done, but if our achievements are any indication of what the future will be like, we shall succeed. It cannot be otherwise. We must not and we cannot fail. I am proud of all of you, of every sister and brother.

Thank you for inviting me, thank you for the opportunity to give what is my farwell address. I am retiring at this convention. My greatest joy has been to serve you, my greatest happiness in the future will be to see our organization going forward.

May God give you the vision and the spirit never to falter. (Standing Ovation).

SISTER AUSTIN: Thank you Brother Randolph for your inspiring remarks. And we pray God give you good health to enjoy a happy retired life.

We shall now stand and sing "I Shall Not Be Moved" and "Randolph Is Our Leader."

Sister Mildred Smith was voted as Sergeant-of Arms for the duration of the sessions. There were fifty members present.

Thereupon the meeting adjourned for lunch.

MONDAY AFTERNOON SESSION

SEPTEMBER 2, 1968

The meeting reconvened at two-thirty o'clock p.m., Sister Austin presiding.

SISTER AUSTIN: Will the Convention please come to order. We are ready to proceed with our afternoon session.

Ladies I am quite sure you were very much inspired this morning with Brother Randolph's address. We were happy to have him come and begin our convention with words from him.

Another person, one of the founders of the organization, there is no one in this room who do not know her ... Sister Tucker.

SISTER TUCKER: I hope I won't crack-up. It is a pleasure to be with you again. This time last year I was in the hospital. I left the hospital on Friday, went to church on Sunday, (The members were surprised to see me) and delivered an address, "Enter every open door."

I want you to bear with me. I love every one of you and you have loved me - this is the only way to get along. I was very anxious to come here and will never forget the fellowship. I am eighty-six years old and have spent the last forty-three years in this organization. I helped to organize the men. We have survived -- we made it. I was hard on the men. I even had to make my husband to become a Brotherhood man. (Laughter) Had to make him stay a Brotherhood man. (Laughter)

Every porters' wife should stick by the Brotherhood. When the International Auxiliary was formed I was made Secretary-Treasurer and Sister Wilson the International President, and without pay. We worked with all the Auxiliary Ladies. You have an understandingheart -- an understanding heart for each other. I loved the work.

The Brotherhood employees enjoy fringe benefits through the Contracts which the Brotherhood of Sleeping Car Porters made with the Railroads. While I was in the hospital, my bill was $15,000.00. I paid a certain part of it. When I came home from the hospital, I was reimbursed -- the Brotherhood made it possible.

I want to say to you that we have quite a responsibility toward ourselves and toward the other members of our union. Many of us have retired and are receiving retirement checks and other fringe benefits, and it does seem to me that if for nothing else but appreciation of what the union has done for you, that you should remain actively engaged with this movement as long as you live.

I am asking you to rededicate yourselves. I have given you all that I have. It has not been easy ....people became envious of me. Next convention I will be ninety years of age and I don't know if I will be with you at the next convention. I am proud of you. You are special people and special to me. God bless you and give you the health and strength to carry on the good work. (Standing Ovation)

SISTER AUSTIN: Thank you Sister Tucker. Three years hence I will be looking for you.

We will now have our International Secretary-Treasurer, Brother Bowe, to give you the Three Years Financial Report.

BROTHER BOWE: Greetings: I am asking you to allow me to sit down and read my report.

Before reading my report, I would like to say that Sister Wilson and Sister Tucker was a team, International President and Secretary-Treasurer, consecutively. They were dedicated people. It took hard work to do their job. They had to walk up stairs day and night, they went from door to door to contact the men. I cannot get tired repeating and praising them for their good work. They did not only serve the Ladies Auxiliary, but other organizations.

Senator Javits was a good friend of the Brotherhood of Sleeping Car Porters, he served us when we couldn't pay him. Mayor LaGuardia did the same thing. When Senator Javits was running for election as a congressman he was up against it, he needed help. We organized fifty women. They went from door to door canvassing for him. He was the first Republican elected in a Democratic District ... he was elected because of the Ladies Auxiliary.

They did not only serve the Ladies Auxiliary, but other organizations as well. (Applause)

LADIES AUXILIARY
To The
BROTHERHOOD OF SLEEPING CAR PORTERS
103 East 125th Street, New York, N. Y.

STATEMENT OF RECEIPTS AND EXPENDITURES
AUGUST 1, 1965 to JULY 31, 1968

CASH BALANCE - July 31, 1965		$ 3,701.35
RECEIPTS		
Income from Locals:		
Dues - Schedule #1 - Col. 2	$ 1,205.35	
Initiation Fee - Schedule #1 Col. 3	20.00	
Overages - Schedule #1 - Col. 4	31.50	
Total - Schedule #1, Col. 1	$ 1,256.85	
Other Income		
Interest - Savings Account	$ 352.80	
Membership dues cards-Chicago Division	2.50	
Total Income		1,612.15
Total Receipts		$ 5,313.50

Brought forward-Total Receipts		$ 5,313.50

EXPENDITURES

Floral Design - Mrs. L. Sheftall, Asheville, N.C.-Oked by B.F. McLaurin.	$ 10.30	
Grace Rembert-Org. Expense- November 1965 to October 1966.	60.00	
Rosina C. Tucker-COPE conf.-Washington, D.C.-taxi fare, lunch & per diem.	20.15	
AFL-CIO National Auxiliaries-Contribution toward the plan for sustaining the AFL-CIO National Auxiliaries.	25.00	
Petty Cash-Postage, carfare & Org. Expense	43.22	
Convention Expenses-Chicago-September 1965		
Secretorial Services-Correspondence, 1965 & 1966 Financial Report.	143.00	
Elizabeth Austin-RR fare, roomette & per diem, Jacksonville to Chicago.	252.05	
M. Rodwell-Air fare, Ground, RR fare, roomette & per diem-New York-Chicago.	366.91	
Secretorial Services-1965 Convent Proceedings and correspondence.	173.00	
Secretorial Services-3 years (1962 to 1965) financial report & correspondence.	92.50	
Outstanding check-7/31/65 returned 8/9/65	25.00	
Ira Rosenberg - Printing		
50 Scrolls - Washington Division	49.88	
500 letterheads & envelopes-Advisory Council.	16.80	
Concord Printing-500 letterheads, envelopes Advisory Council.	48.92	
Ladies Auxiliary Advisory Council-Contribution to a "Shut-in"	25.00	
Elizabeth Austin-Petty Cash to be used for Advisory Council's communications etc.	100.00	
Washington Division Ladies Auxiliary-To Adjust overage-report of January 1967, report sheet #11907.	14.25	
Jersey City Division-To adjust overage on sheet #5703.	8.80	
Elizabeth Austin-RR fare, pullman, meals, taxi-to 6th Constitutional Convention AFL-CIO Nat'l. Auxiliaries, Miami, Fla.-December 10-13, 1967.	123.35	
Manufacturers-Hanover Tr.-Service Charges	25.95	
Total Expenditures		1,624.08
CASH BALANCE - July 31, 1968		$ 3,689.42

LADIES AUXILIARY
To The
BROTHERHOOD OF SLEEPING CAR PORTERS

SCHEDULE #1
Income from Locals

	Total Col. 1	Dues Col. 2	Fees Col. 3	Overages Col. 4
Pullman Porters				
Atlanta, Ga.	$ 48.95	$ 45.70	$ 1.25	$ 2.00
Asheville, N.C.	-	-	-	-
Chicago, Ill.	78.15	74.55	1.00	2.60
Cincinnati, Ohio	53.05	51.30	1.75	
Cleveland, Ohio	-	-	-	-
Dallas, Texas	95.10	91.85	.75	2.50
Denver, Colo.	18.75	18.50	.25	
Detroit, Mich.	48.85	48.85		
Ft. Worth, Texas	45.05	44.80	.25	
Houston, Texas	-	-	-	
Jacksonville, Fla.	78.15	76.40	1.75	
Jersey City, N.J.	65.40	56.60		Adj.8.80
Los Angeles, Calif.	123.05	121.80	.75	.50
New Orleans, La.	63.15	56.30	6.50	.35
New York, N. Y.	121.75	119.00	2.75	
Oakland, Calif.	80.20	80.20		
Philadelphia, Pa.	38.40	38.40		
Portland, Oregon	122.65	120.40	2.25	
St. Louis, Mo.	65.80	65.80		
Washington, D. C.	69.90	54.90	.75	14.25
Canada				
Montreal, Canada	40.50	40.00		.50
Totals	$ 1,256.85	$ 1,205.35	$ 20.00	$ 31.50

SISTER AUSTIN: Thank you Brother Bowe. Sister Blanks made a motion that the Three Years Financial Report be received and adopted. Sister Calhoun seconded the motion.

Brother Bowe suggested that a Telegram or letter be sent to Sister Wilson from the Convention letting her know that we are thinking of her. It was so ordered.

There was a general discussion about the monthly reports, which is sent in to the International Office from *the divisions, as to making out of the reports.*

Miss Rodwell, secretary for the Ladies Auxiliary, explained the procedure and commended the Portland, New Orleans and the New York divisions for the accuracy of sending in their reports.

SISTER AUSTIN: Appointed the following Committees:

__RULES__: Effie Ray, Chairman, Portland, Oregon

__CREDENTIAL:__ Annie Mae Taylor, Chairman,
Dallas, Texas

__EDUCATION:__ Gertrude Ross, Chairman,
Atlanta, Georgia

__ORGANIZATION:__ Garda Chavlier, Chairman,
Toronto, Canada

__RESOLUTION & CONSTITUTION:__ Junita Reese,
Chairman, Ft. Worth, Texas

SISTER AUSTIN: I would like to make the following announcements:

A Bus Tour on Tuesday Afternoon. There will be two buses leaving promptly at 2:30 P.M. The fare $3.25. Brother McLaurin is in charge.

On Wednesday Evening at 8:30 o'clock we will have our Reception in the Gold Room.

The next meeting of the Convention will be on Tuesday Evening at 7:30 o'clock p.m.

Meeting adjourned at 4:45 o'clock.

TUESDAY MORNING

SEPTEMBER 3, 1968

SISTER AUSTIN: Will the Convention please come to order. Will you please stand and we will sing the Brotherhood's Song. The Lord's Prayer was said by all.

We will now hear the report coming from the Rules Committee.

SISTER EFFIE RAY: The Rules Committee recommended the following:

1. *Opening Session 9:30 A.M. to 1:00 P.M.*
2. *Afternoon Session to reconvene at 2:30 P.M. until business is completed.*
3. *Chairman to preside at all sessions.*
4. *All delegates shall be seated around table.*
5. *All speakers must be recognized by the Chair, then give name and local, before speaking.*
6. *All present may enter into discussion of all subjects, but only delegates have voting power.*
7. *Each speaker shall be limited to three minutes.*
8. *All rules to be governed by Roberts Rules of order.*

Submitted by:

Effie Ray, Portland, Oregon,
Chairman
Julia Burwell, Jacksonville, Fla.
Mildred Smith, New York, N. Y.
Rosine McLemore, Chicago, Ill.

Sister Lucas of New York moved the adoption of the report. Sister Boone of Jersey City seconded the motion.

There was a question about the three delegates from Atlanta division. Sister Matthews cleared the matter up, stating Sister Ross is the only delegate.

SISTER AUSTIN: I now have the privilege and honor to present to you, and he is no stranger to you, Brother McLaurin, Eastern Zone Supervisor of the Brotherhood of Sleeping Car Porters.

BROTHER MCLAURIN: Thank you, Sister Austin. I'm delighted to be here and to see so many of you.

I have concluded final arrangements for the Bus Tour. We shall have two buses leaving promptly at 2:30 P.M. The fare is $3.25. I'm certain it will be an enjoyable trip for all of you, especially for those who have not visited New Orleans before.

There has been quite a bit of activity in the various divisions of the Eastern Zone, this despite the fact that many divisions have been dissolved. We lost Buffalo, Cleveland, Pittsburgh, Baltimore, and Detroit. There is no optimistic Pullman prospect in the Eastern Zone this year, but I do hope that we shall be successful in renewing the Boston division.

In all the divisions practically all the members enjoy security. Men working off the job will continue receiving wages. Pullman men will receive substantial severance pay. When they accept severance pay they will no longer be with the company, but they will be able to get jobs elsewhere.

Porters can retire at 65 years of age. They receive $200.00 a month and their wives receive half their husband's salary up to $107.00 a month. In addition, if a man has been in service thirty-years, he receives a supplementary check of $70.00 a month. A porter can, then, have a pension of $370.00 a month, tax free.

I will give you an example: A porter who retired at 62 years of age and had worked elsewhere is now receiving two pensions with his wife receiving her checks, there is four pensions in the family. After 72 years of age you may, if you wish, earn $1,000.00 a month. So you see, it is important that you live. If you lose the Brotherhood you lose all contacts and all benefits.

The Ladies Auxiliary must not be dissolved. It performs a valuable function in creating the feeling of brotherhood and community in which we all share and from which we all benefit. May I suggest that you organize all the wives of our retirees into the Auxiliary and make it so attractive to them that they will maintain their membership. There is no more effective morale booster than a dedicated, well-organized, well-knit Auxiliary. Our organization was designed to advance our economic interests, but it is more, much more, than an economic organization, a cultural organization, and, yes, a spiritual organization as well. It is a human organization that serves and advances our interests and aspirations not only as workers but as human beings and as members of the human community.

You can make a valuable contribution by inspiring the men to organize chapters of senior citizens. The National Senior Citizens help in obtaining housing, transportation, and admission to cultural and recreational activities at half price.

In New York many of our retired members lose contact with us. When they do so they lose contact with each other, and instead of enjoying the fruits of enjoyable social relationships, they retire into their own shells and into loneliness. Above all, don't lose contact with each other. We plan annual activity for our senior citizens, our retirees, and their wives.

Despite the prophets of doom, the railroad has a future. Our country cannot survive without the railroad. The technological advances made by the railroads are keeping them abreast of all modern developments and compare favorably with the technological advances made in other areas of our economy. The railroad will still be the main means of transportation in the future as it has been in the past.

Thank you for giving me the pleasure of talking with you today.

SISTER AUSTIN: All of us have been benefited from the talk which have come from Brother McLaurin. Hope all in attendance will go back and build up on your respective Auxiliary.

At this time I am privileged to have the honor to present to you, Dr. Brailsford Reese Brazeal, Professor and Chairman of the Department of Economics as well as Dean of Men at Morehouse College, Atlanta, Georgia. Dr. Brazeal.

DR. BRAZEAL: Thank you, Sister Austin. I am delighted to be with you. It is always a pleasure to talk to you.

We as members of an oppressed racial minority are sorely in need of developing and extending our leadership. You have good leaders, indeed excellent leaders, who have been developed over many years and who have proved their leadership by their outstanding accomplishments. I have talked with members of the Ladies Auxiliary, with porters and their families, and they have all demonstrated a group solidarity and social cohesion that is admirable. They all know what they want to do, but more than that - they do it.

The Brotherhood of Sleeping Car Porters has provided stable, responsible, and inspiring leadership. National and racial in scope, it encompasses the economic, social, and cultural aspirations of its members and of the wider community as well. The March on Washington was one of its major accomplishments, and was largely responsible for the establishment of the Fair Employment Practices Commission. Executive Order 8802 came out of that march, giving members of our race the the right to work without discrimination. You as members have done your part in the many activities in which you have been engaged throughout the country, and you have done more *than your fair share in advancing the cause of unionism among minority workers. Some two millions of us are affiliated with the AFL-CIO.*

Incidentally, Morehouse College is sponsoring a biography of Brother Randolph. The Ladies Auxiliary will figure prominently in the book. The life of Brother Randolph is so intimately intertwined with the history of American unionism that this book will be indispensable not only to all those who are interested in one of the great creative lives of our time but in the cause to which he has dedicated his life.

Many people have been disappointed when their children have not been accepted for admission to college. What can you do to obtain a higher rate of college admissions for your children? The first thing that you can do is to establish scholarships so that qualified boys and girls will not be prevented from going to college because of economic hardship. Break down the economic barriers and you will obtain more admissions. The second thing you can do is to get the children ready for college. See to it that they have a sound preparatory education that will equip them for higher studies. Create the proper enviornment and congenial surroundings for study. Inspire them to study hard. Have them learn mathematics, the sciences, languages, history. Let then learn Negro history by all means, but let them not become so steeped in the problems of Negro consciousness that they will be disdainful of all other studies. Black consciousness will not enable them to get jobs that demand knowledge and higher skills. Separatism and segregation will not help - only knowledge and more knowledge. Every oppressed group or minority has elevated itself when and as it has acquired knowledge and skills.

We are making significent material progress. In Atlanta, the Citizen Public Transportation Company built a twelve story building. The president, officers and shareholders of a bank, whtch is a member of the Federal Reserve System, are all Negroes. The bank and the Brotherhood of Sleeping Car Porters are Black Power. Black Power is not rhetoric and exhortation. It is the ability to concentrate all your economic, political, social, and cultural resources, all your skills and intellectual abilities, on your problems and to solve them.

See to it that your children and your grandchildren acquire a good education, that they develop their abilities and their aptitudes to the full. Don't segregate yourselves, but mix with various groups and participate in civic affairs and in the worthwhile activities of your community. Be tolerant and achieve tolerance for yourselves and for others.

Keep the good work going. Thank you.

SISTER AUSTIN: Thank you Dr. Brazeal very much for those encouraging and inspirational remarks.

We will now hear the report coming from the Credential Committee,

SISTER TAYLOR: We your Credential Committee submit the following report.

DELEGATES

To The

FIFTH TRIENNIAL CONVENTION
LADIES AUXILIARY
BROTHERHOOD OF SLEEPING CAR PORTERS

SEPTEMBER 2 - 4, 1968

Division	*No. of Delegates*	*Names of Delegates*
Atlanta, Ga.	*1*	*Gertrude Ross*
Chicago, Ill.	*1*	*Rosine Tyler McLemore*
Dallas, Texas	*1*	*Annie Mae Taylor*
Detroit, Michigan	*1*	*Ida P. Whitaker*
Ft. Worth, Texas	*1*	*Juanita Reese*
Jacksonville, Fla.	*1*	*Julia Burwell*
Jersey City, N. J.	*1*	*Georgia Boone*
New Orleans, La.	*1*	*Susanna D. Lester*
New York, N. Y.	*1*	*Claudie M. Goodson*
Oakland, Calif.	*1*	*Lillian B. Sills*
Portland, Oregon	*1*	*Effie Ray*
Pittsburgh, Pa.	*1*	*Estelle Blanks*
St. Louis, Mo.	*1*	*Lillian Calhoun*
Tampa, Florida	*1*	*Wylean Powell*
Washington, D. C.	*1*	*Gladys Slade*

There are 15 Delegates to the Convention.

ALTERNATE DELEGATES

Jacksonville, Florida	Eddie L. Baker
Jersey City,	E. Davis
New York, N. Y.	Estelle Samuels

SISTER RAY, of Oregon moved the adoption of the report coming from the Credential Committee. Sister Boone of Jersey City seconded the motion.

SISTER AUSTIN: I will now call on the Education Committee to make their report.

SISTER ROSS: We your Committee On Education met and wish to make the following report.

We defined Education as a key to the growth of the country and the development of the mind. The lighting of the torch of civilization, the ability to vitilize knowledge and to achieve a better way of life in our community.

Now the question before us is to make our communities practical and profitable - in the name of Our Almighty Creator, Jesus Christ.

Beginning with our families, our children and our homes, let them serve as a source of inspiration for us. If our children receive the proper training in our homes by encouraging them to respect law and order and emphasising that the learning process is continous, by establishing clean interesting recreation and activities in the community the atmosphere and environments in which a youngster is reared reflects his future.

We should see to it that our children get a good foundation in the basic requirements; see that they remain tolerent and make a good mixer.

Americans must be made to realize the necessity for education, better housing, better opportunities at what ever cost, as the only lasting effective means of assuring domestic tranquility.

The voice of those who advocates this point must not be drowned out by demagogues who want to suppress all dissent in order to hinder progress.

Since we have found the solution let the answer not be (why) but why not.

Humbly submitted,

Your Committee,

Estelle Harris Blanks, Pittsburgh, Pa.
Claudia Goodson, New York, N. Y.
Ophelia Culpepper, Atlanta, Ga.
Susan Lester, New Orleans, La.
Gertrude H. Ross, Chairman, Atlanta, Ga.
Mamie C. Barnes, Secretary, Oakland, Calif.

SISTER AUSTIN: It has been readily moved and seconded that the report of the Education Committee be adopted.

Yes, Sister Blanks, of Pittsburgh. The Pittsburgh division did not know where to send the report or money and that is why you have not heard from them.

(The Pittsburgh division was told where to send their reports and money.)

The meeting was adjourned at 1:00 p.m.

TUESDAY EVENING

SEPTEMBER 3, 1971

The meeting reconvened at 6:45 p.m.

SISTER AUSTIN: Will the convention please come to order. We will all join in saying the Lord's Prayer.

We will now continue with Reports of the Committees. The Organization Committee.

SISTER CHEVALIER: We your committee on Organization submit the following:

First. The purpose of the Organization is to strengthen the officers and members of Local Auxiliaries, so they may be more effectively coordinated by the International in a sound and practical program, for the building of a bigger and better organization with views to cooperate with the

Brotherhood in these times of railroad crisis.

Second. We recommend to this Auxiliary the importance of organizing in each division Senior Citizens of men and Women where ever possible, and affiliate themselves with the Senior Citizens National Congress in Washington.

The Committee:

Garda Chevalier, Chairman,
Toronto, Canada
Georgia Boone, Secretary,
Jersey City, N.J.
Lillian Calhoun, St. Louis, Mo.
Wylean Powell, Tampa, Fla.
Gladys Slade, Washington, D. C.
Jane Greene, New York, N. Y.

SISTER AUSTIN: It was moved and seconded that the report coming from the Organization Committee be adopted.

I call on the Resolution and Constitution Committee. Yes, Sister Tucker.

SISTER TUCKER: I move that the Report of the Resolution and Constitution be read by sections and voted upon accordingly. The motion was carried.

SISTER REESE: Madam Chairman; we the Committee on Resolutions and Constitution submit this our report.

Be it the sense of this Convention that we go on record as being grateful for the contribution that our leader, Brother A. Philip Randolph, has made in organizing the humble Pullman Porter to the extent that a great organization, the Brotherhood of Sleeping Car Porters was born.

An organization that benefits the pullman porter by raising his status economically, socially, spiritually and has been an inspiration plus financial support to many other organizations and individuals in the field of education and especially organized labor.

Sister Tucker made a motion for the adoption and it was seconded by Sister Ross.

That, we remember all of our living and deceased International Officers for the years of sacrifical and dedicated service in working toward the building of this Brotherhood. We can not fail to note the contribution of the local officials because, many were forced to work under great pressure.

The motion was seconded and then passed by unamious vote.

We pledge ourselves to always foster and maintain a Ladies Auxiliary, and that its name shall always be the Ladies Auxiliary to the Brotherhood of Sleeping Car Porters, and it must not be converted into any other organization.

Sister Blanks made the motion and it was seconded by Sister Burwell.

Sister Tucker asked for an explanation.

The Chairman stated that we do not want the Ladies Auxiliary turn into any other organization. It was the understanding that some of the Auxiliaries are going as "Social Clubs." The name must not be changed. It is an honor to be a member of the Ladies Auxiliary.

The Resolution was passed by unanimous vote.

WHEREAS, so many of our members are losing interest due to the Brotherhood members lack of employment with the Pullman Company so many of our Auxiliaries have disbanded.

We, the members of the Jacksonville Ladies Auxiliary submit the following recommendations.

WHEREAS, let us not forget what the Brotherhood of Sleeping Car Porters has done for us in the past and are still doing what it can, and think of its great contribution made toward the great Labor Movement and for all mankind.

WHEREAS, let us keep in mind the great sacrifices made by the Brothers and Sisters who have passed on who made the Organization. Let us forever keep the Auxiliary alive and cherish their memory and appreciate these noble characters.

THEREFORE BE IT RESOLVED, that every Auxiliary make an effort to survive by meeting at least once per month. Sponsor at least one public affair a year. Sponsor one Social affair once a year. Hold educational meeting for the benefit of the members.

WHEREAS, let us keep our fellowship. Encourage young porters' wives, wives' of retired and deceased porters to come in with us and where SCL Chair Car Attendants Local invite the wives to become a part of your Auxiliary.

WHEREAS, when possible have the Brothers hold joint meetings with you.

WHEREAS, since we became affiliated with the AFL/CIO

Auxiliaries it gives us a great source of inspiration and education. When invited to the Central Labor Union meetings, attend. This will keep your Auxiliary alive and in the great Labor Movement.

Sister Blanks made the motion seconded by Sister Powell. The motion was adopted.

WHEREAS, Registration and Voting are attributes and citizenship to the winning and protection of Civil Rights and Labor's Rights,

THEREFORE BE IT RESOLVED, that this convention of the Ladies Auxiliary to the Brotherhood of Sleeping Car Porters endorse the registrations carried on by the National Association for the Advancement of Colored People, also other Organization which are working for the advancements and freedom and rights of all people.

Sister Ray made the motion seconded by Sister Goodson, with the necessary corrections.

CORRECTIONS; WHEREAS, Registration and voting are attributes and citizenship to the winning and protection of Civil Rights and Labor's Rights,

THEREFORE BE IT RESOLVED, that this convention of the Ladies Auxiliary to the Brotherhood of Sleeping Car Porters urge the registrations and voting of all our members also urge other Organization which are working for the advancements and freedom and rights of all people.

We extend to the Ladies of the New Orleans division our most sincere thanks for the hospitality shown us.

Juanita Reese, Chairman, Ft. Worth, Tex.
Angelina Davis, Secretary, New Orleans,
Estelle Samuels, Co-Chairman, New York
Nazier Matthews, Atlanta, Ga.
Rosina C. Tucker, Washington, D. C.

Sister Burwell commented on the subject of changing the name of the Ladies Auxiliary. She stated that it should never be changed and always remain as the Ladies Auxiliary to the Brotherhood of Sleeping Car Porters.

Sister Boone made the motion that the entire Resolution and Constitution Committee report be accepted. This was seconded by Sister Blanks.

SISTER AUSTIN: Thanked the members for getting the reports in such a short time.

SISTER AUSTIN: We have now come to the point of the Election of Officers. Brother McLaurin, our Eastern Zone Supervisor, will honor us.

BROTHER MCLAURIN: Now, sisters, we have come to the point of our convention when we will now have as the next order of business the election of officers. I am sure you have a nominating committee. I suggest you get some paper and pencils to cast your ballot. The first order of business is the election of Chairman.

CHAIRMAN: Sister Austin, Jacksonville

Nomination was closed on Sister Austin

Sister Austin was nominated unamiously.

VICE CHAIRMAN: Anna Mae Taylor, Dallas, Texas and Rosine McLemore, Chicago, Ill., nominated.

Nomination was closed on Taylor and McLemore.

Rosina McLemore 9 votes. Anna Taylor, 6 votes.

RECORDING SECRETARY: Georgia Boone, Jersey City, Gertrude Ross, Atlanta, Ga. nominated.

Nomination closed on Boone and Ross.

Georgia Boone 11 votes.
Gertrude Ross 4 votes.

TREASURER: Elizabeth Lucas, New York; Gertrude Ross, Atlanta; Claudia Goodson, New York; and Mae Taylor nominated. Mae Taylor declined.

Nomination was closed on Elizabeth Lucas, Gertrude Ross, Claudia Goodson.

Gertrude Ross 7 votes. Elizabeth Lucas 5 votes. Claudia Goodson 3 votes.

RESULTS OF THE ELECTION

CHAIRMAN: Elizabeth Austin of Jacksonville, Fla.
VICE CHAIRMAN: Rosine McLemore of Chicago, Ill.
RECORDING SECRETARY: Georgia Boone of Jersey City.
TREASURER: Gertrude Ross of Atlanta.

BROTHER MCLAURIN: I recommend that all Presidents will be members of existing locals and members of the Executive Council.

SISTER AUSTIN, I move that all Presidents become members of the Executive Council and members of all existing locals. Seconded by Sister Reese.

BROTHER MCLAURIN: Will all Presidents and elected Officers please stand and we will have the installation of Officers.

(Sister Powell "stand-in" for Sister Hadley, President of the Tampa Division. Sister Sills "stand-in" for Sister Howard, President of Oakland Division.)

Please repeat after me. "I will, to the best of my ability serve the International Advisory Council of the Ladies Auxiliary To The Brotherhood of Sleeping Car Porters."

I extend my congratulations to all the elected officers and wish for you a fruitful year.

SISTER AUSTIN: I want to thank you for the confidence you have in me by reelecting me as your President. I will continue to carry out all orders given and with your support will try to build a bigger and better organization.

We will now have the report from Sister McLemore, National Vice President of AFL-CIO Auxiliaries.

Sister McLemore made a report of the Sixth Constitutional Convention of the National AFL-CIO Auxiliaries held on December 10, 1968 in Miami, Florida. She stated she had the honor to be the excort for Mrs. Humphrey.

A vote of thanks was given Sister McLemore for her report.

We have reached to the point of the Memorial Service. Lets all stand for one minute of silent prayer.

Lets all join in the singing of one verse of the hymn "Bless Be The Tide That Binds."

I am going to ask Sister Boone to call the role.

(As the roll is called the deceased name will be mentioned and a white rose will be placed in a vase by the division representative.)

	Representative	Deceased
Atlanta, Ga.	Sister G. Ross	Pearl Austin
Chicago, Ill.	" R. McLemore	Bertha Batson Minnie Lee
Dallas, Texas	" Anna Taylor	Izola Green
Detroit, Mich.	" Ida Whitaker	None
Ft. Worth, Texas	" J. Reese	Effie Bell
Jacksonville, Fla.	" J. Burwell	Violet Kinnon
Jersey City, N. J.	" G. Boone	None
Montreal, Can.	" None	None
New York, N. Y.	" C. Goodson	Grace Rembert Pauline Steadman
Portland, Ore.	" Effie Ray	Nona Jordan
Oakland, Calif.	" L. Sills	None
Pittsburgh, Pa.	" E. Blanks	None
St. Louis, Mo.	" L. Calhoun	Marg. Jackson
Tampa, Fla.	" W. Powell	None
Washington, D. C.	" G. Slade	None

Sister Boone will say the closing prayer.

This concludes the Memorial for the deceased members.

We now have reached the point of adjournment. Will you all stand? We'll sing one verse of "Hold The Fort and "Till We Meet Again."

As Chairman of the Convention, I now declare the Fifth Triennial Convention of the Provisional Advisory Council of the Brotherhood of Sleeping Car Porters, assembled in New Orleans, Louisiana, adjourned.

The meeting formally adjourned at 8:30 p.m., on September 3, 1968.

ASA PHILIP RANDOLPH

SUBJECT FILE

BROTHERHOOD OF SLEEPING
CAR PORTERS

Legal Papers
Brief

1926

SKELETON BRIEF

OF THE CASE

IN SUPPORT OF THE DEMANDS

of the

BROTHERHOOD OF SLEEPING CAR PORTERS

December, 1926.

The Labor Bureau, In
3 W. 43rd St.,
New York City, N.Y.

FOREWORD

Since August, 1925, the Brotherhood of Sleeping Car Porters has sought to further actively a program demanding a living wage and decent working conditions for the Pullman porters and maids. It has sought repeatedly to obtain conference, in the recognised and approved American fashion, with the Pullman Company. The Pullman Company has seen fit to ignore these requests for conference completely. It has sought strenuously to block the advance of the Brotherhood among its service employees. Nevertheless, more than half of the men and women in its employ as porters and maids are today bona fide members of this new organization. That any organisation must fight for the achievement of ends so modest as those now asked by the Pullman porters and maids is in itself a grave indictment of the employer responsible for them. That workers today must ask wages above the meager $72.50 today paid by the Pullman Company for labor averaging over 343 hours every month and performed under conditions of compensation and work environment which few other workers in the United States would accept, and must ask these things from one of the most powerful corporations in the country, is in itself an indication of the validity of their case. The Brotherhood of Sleeping Car Porters is ready to prove the justice of its case, prove it to the mediators and arbitrators functioning in transportation under the laws of the United States -- and to the American public. Is the Pullman Company ready to do likewise?

The Brotherhood of Sleeping Car Porters has left no stone unturned to collect the evidence which supports its case. The following skeleton brief presents in outline the high spots of its argument. Reference under these arguments refer to the full facts as presented in the voluminous survey of wages and conditions completed by the Brotherhood. References to the Digest of the case are presented for those who wish a briefer summary of the evidence. Finally, documents and first hand material are presented also.

Here, then, is our case. Let the American people decide.

SKELETON BRIEF

OF THE CASE

IN SUPPORT OF THE DEMANDS

OF THE

BROTHERHOOD OF SLEEPING CAR PORTERS

I. THE FACTS RELATIVE TO THE DEMANDS PUT FORWARD BY THE BROTHERHOOD OF SLEEPING CAR PORTERS ARE THE STRONGEST ARGUMENTS IN FAVOR OF THEM, FOR THEY SHOW THAT:

1. Pullman porters and maids earn today on the average $97.43 per month. This wage is accumulated through an average wage actually paid by the Pullman Company in return for the porter's services of $78.11, and income from tips of, on the average $58.15. Out of these gross wages, the porter must spend regularly, in the course of his specified duties, an average of $33.82. When work expenses are subtracted from gross earnings, the porters find themselves left with an average of $97.43 per month, or $1,169.16 annually.

(See: Full Report of Case: Section V, Part , pp.
Also pp.
Digest of Report: Section V, pp.
Also pp.
Exhibits on Wages, Nos.)

2. To earn these wages the Pullman porter must give to the Company an average of 343.43 hours each month. Many porters indeed give even more than this average figure. These long working periods are accumulated each month in time spend on the road in regular monthly assignments, in time required to prepare the car fot the trip, and to clear it after the trip, in unavoidable delays in schedule, and in other service required by the Company.

(See: Full Report of Case: Section V, Part , pp.
Also pp.
Digest of Report Section V, pp.
Also pp.
Exhibits on Hours, Nos.

3. Regularly each month the Pullman porter must contribute a certain portion of his working time to the Company without receiving any compensation for it whatsoever. For wages are based upon mileage performed -- 11,000 miles per month. Calculated at the rate of 30 miles to an hour, such service mileage requires the contribution of 355.6 hours before overtime can be earned. But even more that this, porters contribute regularly on the average slightly over 50 hours as "preparatory and terminal time" -- in preparing their car for the trip, receiving passengers and clearing the car after the trip. For these 50 hours, regularly contributed, they receive no compensation whatsoever.

(See: Full Report of Case: Section V, Part pp.
Also pp.
Digest of Report: Section V, pp.
Also pp.
Exhibits on Working Conditions, Nos.

4. The work performed by the Pullmancar porter has been explicitly recognised by the Pullman Company as essential to its earnings and strategic in the creation of the peculiar product it sells. The Company has also praised the character and responsibility of the Pullman porters as a group and testified to their capability in their work. The loose-leaf note book in which the Company lists the services required of its porters, as of date January 7, 1925, set forth no less than 217 separate matters to which the porter must give his continuous and detailed attention in the name of the reputation of the Company and the health, safety and comfort of the passenger.

(See: Full Report of Case: Section II, parts 4-5, pp.
Also pp.
Digest of Report Section II, pp.
Also pp.
Documents, Nos.)

5. The Pullman Company has made its porter service by public profession and admission a closed industry. On the one hand, it has openly stated that it desired to make only Negroes porters upon its trains, (West Indians and a few Filipinos as well as American Negroes are included). On the other hand, however, the Company has also admitted that there is no opportunity for promotion within the service open to these Negroes. Consewuently, the wage scales and working conditions the Company establishes for porters and maids becomes doubly significant as the sole avenue for economical well-being open to them as a result of their work.

(See: Full Report of Case: Section II, Part 6, pp.
Also pp.
Digest of Report Section II, pp.
Also pp.

Documents, Nos.)

6. The Pullman porters and maids for many decades have been demanding the improvements in working conditions they now ask through the Brotherhood of Sleeping Car Porters. It is noteworthy that porters as well as the Pullman conductors were protesting before the Industrial Relations Commission in 1915 against long hours, low wages, onerous work expenses, the contribution of preparatory and terminal time without compensation, faulty grievance machinery. Consequently, in considering the demands still put forward by the Brotherhood of Sleeping Car Porters, we must look upon them not as novel and unreasonable requests, but as attempts to remedy a long standing accumulation of grievances.

(See: Full Report of Case: Section IX, Parts 1-2, pp.
Section XVII, Part 2, pp.
Digest of Report: Section IX, pp.
Section XVII, pp.
Also pp.

Documents, Nos.)

7. Within the short space of little more than one year, well over one half of the porters and maids employed by the Pullman Company have joined the ranks of the Brotherhood of Sleeping Car Porters. Under any conditions such a fact would be evidence of striking discontent and unrest in the working ranks of the Pullman service. But when we remember that the Pullman Company has bitterly opposed the activities of the new Brotherhood, has discharged men for joinint it, has launched publicly campaigns against it, has sought to undermine its appeal by granting inconsiderable improvements and reforms to the porters and maids, when we remember these things, the membership record achieved by the Brotherhood of Sleeping Car Porters becomes striking index indeed of unrest and unsatisfactory conditions.

(See: Full Report of Case: Section I, Parts 1-2, pp.
Section IV, Part 1, pp.
Digest of Report Section I, pp.
Section IV, pp.
Exhibits on Union Strength, Nos.)

II. WAGES SHOULD BE INCREASED TO ESTABLISH A MINIMUM OF $150 WITH SUITABLE DIFFERENTIALS FOR LENGTH AND GRADE OF SERVICE, FOR:

1. Present wage rates in the service are very low. Standard sleeping car porters receive a minimum of $72.50 for their labor from the Company. These wage rates by admission of the Company are not regarded as an adequate compensation for service performed. It is thought, however, that the porters and maids will augment this admittedly inadequate wage by tips. According to the replies to questionnaires received by the Brotherhood from 673 regular porters (and 104 extra porters) it can be shown that the average rates paid by the Company come to $76.11.

(See: Full Report of Case: Section III, Part 1, pp.
Section V, Part 6, pp.
Digest of Report: Section III, pp.
Section V, pp.
Exhibits on Wages, Nos.)

2. Income from tips does not increase the wage rates paid, sufficiently to establish a living wage. The Pullman Company has made the receipt of tips by the porter a cardinal argument in its refusal materially to increase wage rates. Nevertheless, the Company has at no time attempted to ascertain what income the various porters will receive from tips on the various runs to which they are regularly assigned. There is great variation in tip incomes received by different porters even though they rank equally high as workers, according to every test which the Company itself would apply to them. How these things come to be can be understood through a consideration of the arguments upon which the Brotherhood bases its demands for the abolition of the tipping system (See III below.) In an effort to discover just what porters made from tips, the Brotherhood included pertinent questions on this subject inthe questionnaire which was sent to porters throughout the country. These showed that onthe average men receive about $58.15 from tips, a figure substantiated by various collateral evidence. Interviews with various porters further substantiated these findings.

(See; Full Report of Case: Section V, Part 6, pp.
Section VI, Parts 2-6 & 11, pp.
Also pp.
Digest of Report: Section V, pp.
Section VI, pp.
Also pp.
Exhibits on Wages, Nos.)

3. Out of his scanty earnings the porter must regularly pay heavy expenses incurred in the continuous course of his work. Until he is ten years in the service he must buy his own uniform, he must at all times purchase the shoe polish and equipment with which the Company expects him to polish the shoes of its patrons; he must buy his own meals on the road and away from home, paying half rates in the Pullman diners; fully 50% of the men, according to the findings of the questionnaires, provide their own sleeping quarters at outlying termini. An interesting parallel to this last fact may be seen in the estimate by the order of Sleeping Car Conductors that about 50% of the Pullman conductors also provide their own sleeping quarters away from home. The total work expenses regularly incurred by the porters average some $33.82. These regular occupational expenses, prerequisite to the porter's continuance in his employment, must, we feel, be held in mind at all times in discussing porters' earnings.

(See: Full Report of Case: Section V, Part 6, pp.
Section VI, parts 2-8, pp.
Also pp.
Digest of Report: Section V, pp.
Section VI, pp.
Also, pp.
Exhibits on Wages, Nos.)

4. The wages paid to the Pullman porters are inadequate before every estimate of the cost of living for a worker's family, necessary or desirable, in the United States. When we remember that the porter makes something less than $1200 per year, even the modest requirements set up by such cost of living studies as those made by the Bureau of Labor Statistics of the U. S. Department of Labor, numerous State agencies, academic agencies, and even employers' agencies, seem far removed indeed from the porter's ability to meet them. The standard budget devides by the U. S. Department of Labor today requires an income of $2,119.93. The lowest budget that has been put forward for workers' families, the New York City Board of Estimate budget for laborers, would today require an income of $1460.83. The porter today, therefore, is in no way able to meet an American Standard of Living.

(See: Full Report of Case: Section VII, Parts 1-5, pp.
Digest of Report: Section VII, pp.

Exhibits on Family Budgets and Current Costs of Living, Nos.)

5. The American standard of living of course must be applied to all workers, regardless of race or color. It may appear strange that at this time and in this country such a truth should have to be emphasized. But apparently in the case of Negro workers as in the case of women, a belief still remains among large sections of people that the Negro worker can live on less than can the white. All the evidence, however, and it is voluminous, tends to show that the Negro in the United States pays as much for food, clothing, fuel, light, furnishings, car fare, and miscellaneous expenses, as does the white worker; and that he must pay more proportionately for what he receives for shelter. In addition, vital statistics reveal that the Negro payds in higher death and sickness rates for inadequate wages and poor living conditions. In view of all these facts, the responsibility of the Pullman Company — with its professed policy of employing Negroes as porters and giving them no opportunity to rise from the position of porter, — for the wages it pays its workers, appears double clear — and neglected.

(See: Full Report of Case : Section VIII, parts 1-4, pp.
Also pp.
Digest of Report: Section VIII, pp.
Also pp.

Documents on Negro Cost of Living and Health, Nos.)

6. Porters' wages are not only inadequate today, according to every test that may be applied to them, but their wages have always been too low. A history of porters' wages since 1897 shows that in 30 years they have increased only from a minimum of $37.50 to the present minimum of $72.50. Such a slight increase over 30 years reveals how the porters have at all times suffered from inadequate wage rates. When the movement in these wages is compared with the movement of the cost of living, we receive further understanding of how pitifully inadequate have been the porters' earnings. Thus, while the money wages of the porter have increased since December 1915 from $330 a year to $870, the purchasing power of these wages have increased only from $330 to $497.71. As may be expected from these figures, while money wages increasing from such low levels show a percentage increase of 163% since 1915, real wages show an increase of only 50%. Finally, such figures can also reveal how the porters' earnings have lagged continuously behind the requirements of even the most modest standards of living.

(See: Full Report of Case: Section X, Parts 1-4, pp.
Section IX, Part 2, pp
Also pp.
Digest of Report: Section X, pp.
Section IX, pp Also pp.
Exhibits on Wages, Nos.)

7. When compared with wage increases won by workers over the same three decades, porters' wages exhibit a slow advance. Transportation workers in general, Pullman conductors and workers in general industry have all advanced much more rapidly in their wages than have the Pullman porters. Thus, while the wages of Pullman porters have advanced since 1897 from $240 to $795 in 1924, the wages of workers in transportation as a whole have advanced from $544 to $1572; and while the minimum wage of Pullman conductors has advanced from $840 in 1915 to $1800, in 1926, the Pullman porters' wages gave advances, during the same period from only $330 in 1915 to $870 in 1926.

(See: Full Report of Case: Section XI, Parts 1-2, pp.
Also pp.
Digest of Report Section XI, pp.
Also pp.
Exhibits on Wages, Nos.)

8. Porters' wage rates, again, are low when compared with rates paid for more or less similar work by other companies. For instance, while the Soo Line, run by the Minneapolis, St. Paul and Saulte Ste. Marie Railroad Company, pays the porters employed in its independent service $80.40 for work in sleeping cars, $90.40 for work in parlor cars, and $95.00 for running in charge as minimum rates, the Pullman Company pays its porters respectively for the same service, $72.50, $72.50 and $84.50. Similarly, the Pullman Company has granted its conductors far more favorable wage increases since 1915 than it has granted its porters. For instance, in 1915, the minimum rate paid conductors stood only $45 above those paid the porters. Today, the same minimum rates are $77.50 above.

(See: Full Report of Case: Section XI, parts 2-3, pp.
Also pp.
Digest of Report Section XI, pp.
Also pp.
Exhibits on Wages, Nos.)

9. All workers should be justly compensated for labor performed. As we have already indicated, the Pullman Company itself has borne testimony to the value of the porters' services, their essential character, their responsibility and the qualities of the porter as man and worker. The Company should be willing to pay adequately for that which it values highly.

(See: Full Report of Case: Section II, Parts 4-5, pp.
Digest of Report: Section II, pp.)

III. THE TIPPING SYSTEM SHOULD BE ABOLISHED IN THE PULLMAN SERVICE, FOR

1. In general, society is coming more and more to condemn tipping for its ethical, economic and social evils. Many clubs and restaurants forbid tips and substitute therefor service charges, cover charges, etc. Even in certain states through which Pullman cars must pass, tipping is forbidden by law. An analysis of how the tipping system works in the Pullman service gives detailed evidence of its inherent evils.

(See: Full Report of Case: Section XII, Part 1, pp.
Digest of Report: Section XII, pp.)

2. To the porter the tipping system brings certain definite economic losses. As we have already seen, its prime justification, as stated by the Pullman Company, has been that it increases the porters' wages and enabled the passenger to pay for personal service. But the facts show that income from tips is generally not sufficient to assure the porter a living wage, and that the personal service for which the passenger is supposed to pay is also one source of the huge earnings of the Pullman Company.

(See: Full Report of Case: Section XII, Part 2, pp.
Also pp.
Digest of Report: Section XII, pp.
Also pp.
Exhibits on Tips, Nos.)

3. The tipping system creates definite economic inequalities in the earnings of the porters. All porters must perform more or less the same work. Nevertheless, the findings show that there is great variation in the exact amount of tip income earned by the various porters, ranging from extremes of less than $15.00 per month to more than $200.00. These differences arise largely from the assignment of "poor" or "good" runs, rather than from exceptional and personal service. The Company has at no time attempted to ascertain the exact amount of tip income which may be expected by porters assigned to its various service runs.

(See: Full Report of Case: Section XII, Part 2, pp.
Also pp.
Digest of Report: Section XII, pp.
Also pp.
Exhibits on Tips, Nos.)

4. Uncertainties enter into receipts from tips by the porters because definite seasonal variations exists in them. Within each year there are times when passenger traffic is heavy, and times when it is light; times over which the porter has absolutely no control. "Styles" in travel also change from time to time. Finally, different types of passengers (e.g., the American Traveling Salesman vs. a theatrical troup) have different "tipping habits" and thus pay variously for the same service. These factors naturally affect the porters' earnings.

(See: Full Report of Case: Section XII, Part 3, pp.
Also pp.
Digest of Report: Section XII, pp.
Also pp.
Exhibits on Tips, Nos.)

5. The speculative nature of tipping is undoubtedly an economic injustice to the porter. The Company has itself admitted that the man "speculated ... with the number of people traveling on the run" and that no officer of the Company would work under an arrangement which makes him a "diminished amount (as wages) and then depend on an indefinite amount to be given you by outsiders." In the same way no porter willingly assumes the speculative risks of tip returns for the investment of his time, his labor and his working life.

(See Full Report of Case: Section XII, Part 4, pp.
Also pp.
Digest of Report: Section XII, pp.
Also pp.
Exhibits on Tips, Nos.)

6. The economic injustices of the tipping system apply with even greater force to the extra porters. For they are also paid low wage rates on the theory that they will augment these wages by tips. Yet, they have no assurance whatsoever of any tip earnings at all during the month.

(See: Full Report of Case: Section XII, Part 5, pp.
Also pp.
Digest of Report: Section XII, pp.
Also pp.
Exhibits on Tips, Nos.)

7. The tipping system has subjected the porter also to very real losses in working conditions. Time and again the Company has opposed their demands for shorter runs, the 240 hour month, decreased work expenses, etc. on the ground that such improvements would "cut into" the income from tips. Evidently, then, when the Company itself assures the porters a living wage, it will also have no further argument, against refusing them decent working conditions in the name of unequal, uncertain and speculative tips.

(See: Full Report of Case: Section XII, Part 6, pp.
Also pp.
Digest of Report Section XII, pp
Also pp.
Documents, Nos.)

8. To the economic injustices of tips from the porter's point of view, must be added a very real social disadvantage. Wherever employed the tipping system creates a peculiar relation between the man tipping and the man tipped, -- on the one hand, sensations of power and patronage, on the other obsequiousness and dependence. In the case of the porter, this general relation is sharpened by the fact that the tipper is usually a white man and the porter~~s~~ always a Negro.

(See Full Report of Case: Section XII, Part 7, pp.
Also pp.
Digest of Report: Section XII, pp.
Also pp.

9. The Pullman Company has gained just where the porter has lost through tips. It saves on its wage bill about $700,000 a month or almost $9,000,000 a year. To claim that the public pays this amount for personal service is to overlook the fact that the Company is really selling the service of its porters to the public. The Company also avoids many of those responsibilities which employers generally assume with regard to the exact wages earned and the working conditions of their employees. The Company has made several indirect savings through the tipping system. For instance, it bases various welfare payments upon the wage rates established rather than upon wage rates plus tips.

(See: Full Report of Case: Section XII, Part 8, pp.
Also pp.
Digest of Report: Section XII, pp.
Also pp.
Documents, Nos.)

10. The consumers' stake in the tipping system as it operates in the Pullman Company may be gathered from the fact that they pay, as a group, from $7,000,000 to $9,000,000 each year in tips to Pullman porters and maids. While it may appear, that the consumer is tipping directly the Pullman porter and maid, in reality he is tipping the Pullman Company which makes its profits out of the labor of these workers and at the same time saves in its wage bill what the consumer pays them.

(See: Full Report of Case: Section XII, Parts 9-10, pp.
Also pp.
Digest of Report Section XII, pp.
Also pp.)

11. It is possible to show that even if the Pullman Company should increase the rates charged its passengers by merely including the porters' tip in the fare, it could make no difference to the consumer, it would be a far more straightforward procedure on the part of the Company, and it would be must fairer to the porters and maids. From figures published by the Pullman Company itself, the service carried during last year 22,470,751 sleeping car passengers, and 13,055,052 parlor car passengers. The Company estimated the tip payments of these passengers at a total of $6,923,193, or for each porter, about $55 a month. In other words, if the price of each Pullman ticket purchased were increased by about 19¢, this fund could have been accumulated. It could then have been used to increase every porter's wage equally and certainly by about $55 per month, rather than as happens with tips, giving one porter about $15, and another over $100 and more. Obviously, such a fair and straightforward procedure would assure each porter a wage of at least some $130 a month.

(See: Full Report of Case: Section XII, Part 10, pp.
Also pp.
Digest of Case: Pages:
Exhibits on Tips, Nos.)

IV. A WORKING MONTH OF 240 HOURS OR LESS SHOULD BE THE BASIS UPON WHICH THE PORTER'S PAY IS CALCULATED, FOR

1. The present method of calculating earnings upon the basis of mileage makes possible a too long working period and creates serious injustice. For, as we have seen, under this arrangement, porters cannot earn overtime until they have worked the equivalent of 355 hours. The majority of the regular assignments do not make possible the accumulation of 11,000 miles per month.

(See: Full Report of Cases Section III, Part 1, pp
Section V, Part 4, pp
Section VI, Parts 1-8, pp.
Section XVI, part 4, pp.
Digest of Report: Section III, pp.
Section V. pp
Section VI, pp.
Section XVI, pp.
Exhibits on Working Conditions, Nos.

2. Payment for a working month of 240 hours or less would make possible the earning of overtime after an 8 hour and a seven day week or its equivalent, had been worked throughout the month. This, according to modern standards, is a very modest condition.

3. The trend in modern industry is certainly toward a general recognition of the justice of the 8 hour day. Indeed, many workers have won the 44 hour week and outstanding employers in American industry are already urging the acceptance of the 40 hour week.

(See: Full Report of Case: Section XVI, Part 4, pp.
Also pp.
Digest of Report: Section XVI, pp.
Also pp.
Exhibits on Working Conditions, Nos.)

4. The Pullman Company has granted this working month to its conductors. It should, similarly and without discrimination, grant it also to its porters.

(See: Full Report of Case: Section XIII, Parts 1&2, pp.
Also pp.
Digest of Report: Section XIII, pp.
Also pp.
Exhibits on Pullman Conductors, Nos.)

V. SERVICE TIME SHOULD BE COMPUTED AS CONTINUOUS FOR EACH TRIP FROM THE TIME REQUIRED TO REPORT FOR DUTY UNTIL RELEASED, SUBJECT TO STATED DEDUCTIONS FOR SLEEP, FOR

1. This demand is a concomitant of the demand for a 240 hour basic month. It meets the demand of mere justice by allowing the men definite time for sleep and pay for all work performed. It makes possible much more simplified time keeping, since the men merely need record the hours they work rather than recording as at present, mileage first, which must then be converted back to hours.

(See: Full Report of Case: Section XV, Part 6, pp.
Digest of Report: Section XV, pp.
Exhibits on Time Sheets, Nos.)

2. That the porter requires definite time for sleep would seem to need no argument. Such definite sleep is necessary, not only to his health but to his efficiency as a worker. Today he does not always receive regular sleep on the road. Granting this demand of the Brotherhood would make such provision for sleep.

(See: Full Report of Case: Section V, Part 4, pp.
Also pp.
Digest of Report: Section V, pp.
Also pp.
Exhibits on Working Conditions, Nos.)

3. Porters should be paid for all labor performed. Today, under the present computation of service time, they do not receive such pay. Granting this demand of the Brotherhood would pay the porter not only for mileage, but also for preparatory and terminal time, for all delays in train schedules, and for whatever service may be required of him from the time he reports for duty until he is released, on each trip.

(See: Full Report of Case: Section V, Part 6, pp.
Section VI, parts 1-8, pp.
Section XVI, Part 5, pp.
Digest of Report: Section V, pp.
Section VI, pp.
Section XVI, pp.
Exhibits on Working Conditions, Nos.)

4. Such a demand, if granted, would lead to a curtailment of the abnormally long hours today worked by Pullman porters. For, is it not natural to believe that the Pullman Company would seek to effect such curtailment of hours if it would have to pay for all time contributed in its sertice.

5. The Pullman Company has granted such a computation of service time to its conductors. It should, similarly and without discrimination, grant it also to its porters.

(See: Full Report of Case: Section XIII, Parts 1-2, pp.
Also pp.
Digest of Report. Section XIII, pp
Also pp.
Exhibits on Pullman Conductors, Nos.)

VI. THE MAJOR DEMANDS OF WAGES AND HOURS SHOULD BE GRANTED NOT ONLY ON THEIR OWN RESPECTIVE MERITS, BUT ALSO BECAUSE THEY MAKE POSSIBLE IMPROVEMENTS IN VARIOUS RELATED CONDITIONS.

1. Extra porters today make very low earnings and receive intermittent employment. Increase in the wage rates would allow them higher compensation for work performed.

(See: Full Report of Case: Section V, Part 9, pp.
Section VI, Part 4, pp.
Also pp.
Digest of Report: Section V, pp.
Section VI, pp.
Also pp.
Exhibits on Extra Porters, Nos.)

2. The payment of work expenses averaging about $33 to $34 a month is very on-rous when porters receive as inadequate and uncertain income as they do today. More regular and more certain wages, at higher levels will make these expenses less onerous. There is a question, however, whether the Company should not in justice itself pay for the shoe polish and equipment which the porter must have on the trip.

(See: Full Report of Case: Section V, Part 6, pp.
Section XVI, Part 6, pp.
Digest of Report: Section V, pp.
Section XVI, pp.
Exhibits on)

VII. WELFARE WORK MUST NOT BE OFFERED AS AN ALTERNATIVE TO ADEQUATE WAGES AND DECENT WORKING CONDITIONS, FOR

1. The Pullman Company has frequently, by implication, stressed the welfare work it does for its porters and maids as a consideration which should be taken into account when considering increases in wage rates, or improvements in working conditions. It is important to realise that welfare schemes can never be adequate substitute for the living wage and American standards of employment.

(See: Full Report of Case: Section XV, Part I, pp.
Digest of Report: Section XV, pp.
Exhibits on Pullman Welfare Work, Nos.
and also Documents, Nos.)

2. The welfare work carried on by the Company is of four types: Through the Pullman Porters' Benefit Association it offers a method of sick benefits and life insurance; through its pension plan it offers a retirement annuity to superannuated employees who have given at least 20 years service to the Company; it makes it possible for porters and maids to purchase a limited number of Pullman stocks; and it maintains such general measures as bands, entertainments, employee magazines. Obviously, all of these plans relate not to the continuous day to day life of the porter and maid, as do wages and working conditions, but to the periodic and intermittent exigencies and needs of human life.

(See: Full Report of Case: Section III, Parts 3-6, pp.
Also pp.
Digest of Report: Section III, pp.
Also pp.
Exhibits on Welfare Work, Nos.)

3. Perhaps the first thing to notice about all these plans is that they benefit not only the porters and maids but also the Company. The Pullman Porters' Benefit Association is largely maintained and pays its benefits out of annual dues contributed by the porters themselves. Its activities has permitted the Company to effect a real saving since it has discontinued paying a half month's salary to men who are sick, as was the practice before the Association was established. The Company has at all times maintained a close connectionwith the Association, and it has made its purposes a combined one of mutual benefit.

(See: Full Report of Case: Section III, Part 3, pp.
Section XV, Part 2, pp.
Digest of Report: Section III, pp.
Section XV, pp.
Exhibits on Welfare Work, Nos.)

4. Similarly, the pension plan operated by the Company, as all such plans, affords the Company a means of eliminating from the service superannuated employees, whose most active years have passed, by providing for the compulsory retirement of men who reach the age of 70. This feature has been recognized as an important part of allretirement plans in industry. In addition, as does most welfare work, it gives the Company a means by which loyal employees may be tied faithfully to the service for long years, by holding over them the promise of a pension if they give at least 20 years continuous service.

(See: Full Report of Case: Section III, Part 4,pp
Section XV, Part 3, pp.
Digest of Report: Section III, pp.
Section XV, pp.
Exhibits on Welfare Work, Nos.)

5. Similarly, the stock ownership plan and the general welfare work has been put forward by the Company as a means of "promoting the esprit de corps of the employees."

(
See Full Report of the Case: Section III, Parts 5-6, pp.
Digest of Report: Section III, pp.
Exhibits on Welfare Work, Nos.)

6. On the other hand, from the porters' point of view these welfare schemes, though they do bring the men some benefit, offer also many places for improvement. With all of them it must be emphasized, as has already been said, that their benefits cannot ever be offered in lieu of decent wages and working conditions, but the operation of them all leaves many inadequacies in the achievement of even those ends which they set for themselves, and that a union of porters would be able to provide such benefits for themselves, if they deemed them necessary.

(See: Full Report of Case: Section XV, Part 1, pp.
Also pp.
Digest of Report: Section XV, pp.
Also pp.)

7. For instance, the stock ownership plan gives Pullman porters the opportunity to buy one share of stock at reduced rates upon stallments ($140 a share, paid for at the rate of $3.00 a share monthly) for every $500 of annual salary. Under current wage rates in the service today no porter could buy more than one share of stock per year.

(See: Full Report of Case: Section III, Part 5, pp.
Digest of Report: Section III, pp.
Exhibits on Welfare Work, Nos.)

8. The Pullman Porters' Benefit Association admits to membership all Negro porters in good health between the ages of 21 and 44. These men pay annual dues of $28 in quarterly installments. In return, they receive sick benefits of $10 a week, after the first five days of illness, and up to 12 consecutive weeks in one year. If disabled, they, upon favorable consideration may receive a disability benefit of a maximum of $250. Upon the death of the member his designated beneficiaries receive a maximum of $1,000. If a porter leaves the service, no part of his payments are returned to him. It is the contention of the Brotherhood that this scheme is a form of self-paid group insurance for the porters which lacks several of the benefits which the porters could obtain from straightforward insurance schemes. For instance, more group insurance taken out in industry is paid for by the employer; industrial insurance paid for by the worker offers usually loan values, surrender values and cash values.

(See: Full Report of Case: Section III, Part 3, pp.
Section XV, Part 2, pp.
Also pp.
Digest of Report Section III, pp
Section XV, pp
Exhibits on Welfare Work, Nos.)

9. The pension plan of the Company offers men, who at the age of 70 have given at least 20 years service to the Company, a retirement pension equal to 1% of the average salary during the last 10 years of service, multiplied by the number of years of service. The minimum pension is $15 per month. The average pension today paid by the Company is little over $18.00 per month. Obviously, such an allowance paid to men of long and faithful service to the Company does not allow them any great promise of comfort or security in their old age. It should be noticed in passing also that the Company bases its pension payments not upon the combined earnings of the porter from wages paid and tips, but only upon the admittedly inadequate wage rates.

(See: Full Report of the Case: Section III, Part 4, pp.
Section XV, Part 3, pp.
Also pp.
Digest of Report: Section III, pp.
Section XV, pp.
Exhibits on Welfare Work, Nos.)

10. In conclusion, the Brotherhood of Sleeping Car Porters fell it must be clear from these facts why it contends that the welfare work carried on by the Pullman Company can have no direct bearing upon demands for increased wages and improved working conditions.

VIII. THE BROTHERHOOD OF SLEEPING CAR PORTERS SHOULD BE RECOGNIZED AS THE REPRESENTATIVE OF THE PORTERS AND MAIDS, FOR

1. The porters and maids wish the Brotherhood of Sleeping Car Porters to represent them in negotiation with the Pullman Company. In spite of all the opposition tactics launched by the Company against the Brotherhood, the majority of the men and women today in the service have joined the new organization. The Brotherhood possesses clear cut proof og the truth of this fact.

(See: Full Report of Case. Section I, Parts 1-2, pp.
Digest of Report: Section I, pp.
Exhibits on Union Strength, Nos.)

2. The right of the men to representation in dealing with the Company is not at issue. For, the Company has finally admitted this right through its establishment in 1920 of the Plan of Employee Representation. The only question at ittue, therefore, is whether this Plan of Employee Representation or the Brotherhood of Sleeping Car Porters is the best qualified representative of the men.

(See: Full Report of Case: Section IX, Parts 1-2, pp.
Section III, Part 2, pp.
Also pp.
Digest of Report: Section IX, pp.
Section III, pp.

3. In 1915 the Company had recognized no machinery for group negotiations with any of its employees. Consequently, both Pullman conductors and Pullman porters protested before the Industrial Relations Commission againstthe lack of such machinery. Todgy it is important to note that the Pullman Company deals with its conductors through their self-formed, self-managed and self-financed Order of Sleeping Car Conductors; while it deals with its porters and maids through the company-formed, company-managed and company-financed Plan of Employee Representation. The Brotherhood of Sleeping Car Poters might content itself merely by asking why such discrimination. But there is far more to the case for independent organization than this. By comparing the two representative mechanisms and testing their comparative advantages to the employees concerned by actual accomplishments, response, democratic machinery, negotiation machinery, grievance machinery, it is possible to see how the shortcomings of the Planof Employee Representation has led the porters and maids to ask for the recognition of an independent Brotherhood, similar to that of the conductors.

(See: Full Report of Case: Section XIII, pp.
Digest of Report: Section XIII, pp.)

4. From the employees' point of view that representative organization which has achieved the best returns in wages and working conditions must be rated as the superior organization. From such a test of accomplishment the Order of Sleeping Car Conductors stands forth far above the Plan of Employee Representation. In 1915 both porters and conductors were demanding large wage increases, a 240 hour basic month, pay for all labor performed, adequate grievance machinery, provision for sleep on the road, satisfactory conditions of relief, seniority, etc. Today the conductors, through their organization formed in 1918, have won most of these things; while the porters, as we have seen, still ask most of them in spite of the operation of the Plan of Employee Representation since 1920. Indeed, a comparison of the demands put forward at Joint Conferences under the Plan by the porters and the gains that actually emerged fromthese conferences shows how inconsiderable have been the real accomplishments of the Plan of Employee Representation.

(See: Full Report of Case: Section XIV, Part 1, pp.
Also pp.
Digest of Report: Section XIV, pp.
Also pp.
Exhibits Nos.)

5. That the comparatively greater accomplishment of the Order of Sleeping Car Conductors has won a far greater measure of loyalty and appreciation from the conductors than the Plan of Employee Representation can boast from the porters, can be read in the present status of the two organizations. For at the same time that the porters and maids in large numbers were deserting the Plan for the newly launched Brotherhood of Sleeping Car Porters, the conductors were celebrating the eighth anniversary of their union by ~~hasty~~ hearty testimonials of its value to them.

(See: Full Report of Case: Section XIV, Part 2, pp.
Digest of Report: SectionXIV, pp.)

6. Any test of democracy applied to the two organizations reveals at once the shortcomings of the Plan of Employee Representation. The Plan was formulated and presented by the Management, and the porters hold no clearly recognized right to revise, change or abolish it in any way. The Plan yields the porters inconsiderable bargaining power since its representatives are paid by the Company, can acquire no real skill in negotiation, and are dependent for their jobs upon the Company. Often they deal with their own superintendents, many of whom are not sympathetic at all to the Plan. Obviously, an independent Brotherhood offers a direct contrast in all of these particulars of democracy to the Plan.

(See: Full Report of Case: Section XIV, Part 3, pp.
Section III, Part 2, pp.
Digest of Report: Section XIV, pp.
Section III, pp.

7. Measured by the test of negotiation, the Plan of Employee Representation falls short. For, in the first place, the Joint Wage Conferences, in which wages and working conditions are negotiated under the Plan, are not formally set up in the constitution of the Plan itself. Thus the Plan machinery grants only local and district representation, national negotiation is launched through appeal to the Company, or by notification from either signatory of the agreement. Since the Employee Representatives at these conferences are not a continuing body, this provision for launching national negotiations is hazy and uncertain. Again, no principles of wage determination and of the determination of working conditions have been recognized in the Plan. Current wage rates established by these negotiations are nowhere formally recorded. Finally, the operation of the Plan makes it almost impossible for employee representatives to formulate programs of demands behind which they can put their combined appeal.

(See: Full Report of Case: Section XIV, Part 4, pp.
Section III, Part 2, pp.
Also pp.
Digest of Report Section XIV, pp.
Section III, pp.
Also pp.
Exhibits Nos.)

8. Measured, again, by the test of adequate grievance machinery, the Plan falls short once more. In handling grievances, representatives and the joint, local and zone committees, are Negro porters facing white, supervisory representatives of the management. The experience of the Plan reveals that minor management officials, such as superintendents, are usually more hostile to real democratic functioning in the daily work life than are the higher executives. Men generally in the Pullman service have found it difficult to carry on full and adequate handling of grievances since investigations must be conducted by the porters themselves and the hostility of the supervisory officials must be continuously confronted.

(See: Full Report of Case: Section XIV, Part 5, pp.
Section III, Part 2, pp.
Also pp.
Digest of Report: Section XIV, pp.
Section III, pp.
Also pp.
Exhibits Nos.)

9. It may be justly said, therefore, that shortcomings in the machinery of the Plan of Employee Representation itself explainthe paucity of its accomplishments. The porters and maids ask of the Pullman Company recognition of an independent organization in negotiating wages and working conditions, of such nature as has already been accorded to the Pullman conductors.

IX. THE PULLMAN COMPANY SHOULD ESTABLISH FOR ITS PORTERS AND MAIDS WAGE RATES AND WORKING CONDITIONS EQUIVALENT TO THOSE WHICH IT HAS ALREADY ESTABLISHED FOR ITS CONDUCTORS; FOR

1. The work of porter and conductor is in many respects similar. Indeed, conductors and porters travel on the same trains, over the same routes, and under the same conditions. If a 240 hour basic month is necessary for the conductors, and just for them it is also necessary and just for the porters. If conductors should be paid for preparatory and terminal time, for all delays, and for all labor performed, porters and maids should also be paid for these things. If conductors require definite provision for sleep on the road, porters and maids also require such provision. If conductors may be represented in negotiation with the Company by an independent union, their self-formed, self-managed and self-financed Order of Sleeping Car Conductors, porters and maids should also be thus represented.

2. As has been already indicated, in 1915 conductors as well as porters did not have these conditions. Since that time the Company has found itself able to grant them toconductors, while still refusing them to porters. But before granting them to conductors, it argued much as it today argues in the case of the porters; it could not afford these changes; the conductor's job was an unskilled job and an easy one; many men ~~today~~ stood ready to take this job under the conditions and at the wages offered. But in spite of these claims, the Pullman Company has granted the conductors that for which they asked, only to find that the Company's earnings and profits continued on the path of their stupendous growth. There is sufficient analogy in the case of the porters to justify our asking whether we may not expect the Company to find the same results upon granting the porters what they now demand.

3. In the face of these facts, a continued refusal on the part of the Company to establish and maintain comparable conditions for comparable work stands forth as a clear cut case of discrimination.

4. It must be clearly understood that the Brotherhood of Sleeping Car Porters feels that the conductors justly earn and deserve the wages and conditions which they have won through their union from the Pullman Company. We hope and expect to see them continue in this splendid path of achievement. And we know from the expressions of the Order of Sleeping Car Conductors itself how much the conductors are in full accord and sympathy with the present struggle of the Brotherhood of Sleeping Car Porters.

X. NOTHING THE PULLMAN COMPANY HAS YET ADVANCED IN REFUTATION OF THESE DEMANDS PROVES VALID UPON EXAMINATION, FOR

1. The Pullman Company in the course of the passing years has often had to meet protests from its porters and maids. As we have already indicated, the demands which the Brotherhood of Sleeping Car Porters is now advancing grow out of a long accumulation of grievances. Before the Industrial Relations Commission in 1915 and during the Joint Conferences with representatives of the porters and maids, the Company has put forth some answers to the demands for increased wages and improved working conditions long requested by these workers. By assembling these arguments we can make some examination into their validity.

(See: Full Report of Case: Section XVI, Parts 1-2, pp.
Also pp.
Digest of Report: Section XVI, pp.
Also pp.)

2. Against demands for wage increases during recent Joint Conferences the Pullman Company has argued that

(a) 'Other railroad employees have suffered deduction from the peak wages of the war period, while the porters have received only increases.' In answer, the Brotherhood need merely point to its tested figures, proving that the actual dollars and cents that the porters receive are today — and always have been — inadequate to provide a decent living, and low in comparison with the earnings of other workers. Percentage increases in wages pay no bills.

(b) 'The porters enjoy prosperity.' The type of prosperity enjoyed by the Pullman porters emerges from the findings of the questionnaires sent to them. Men who net as a group some $97 a month cannot possess, in reality, any marked prosperity. Statistics on home ownership, whichthe Company often emphasizes, are misleading, untested, and inconclusive.

(c) 'Higher rates would cut tips, because of the assumption on the part of the public that the higher paid porter did not need the tip'. The Brotherhood of Sleeping Car Porters asks the abolition of the tipping system and the clear-cut payment of a living wage for labor performed.

(d) 'The Company could not afford to pay the rates asked.' For answer to this see the figures of the following section, Section XI.

(See Full Report of Case: Section XVI, Part 3, pp.
Digest of Report: Section XVI, pp.
Exhibits on Company's Arguments, Nos.)

3. Against the demand for a basic working month of 240 hours or less during recent Joint Conferences the Pullman Company has argued that

(a) "The Management could not consider that proposition, as it would work detrimentally for the Company....." This is a mere assertion which the Company has yet to prove. Even before it does so, however, the Brotherhood would point to the following significant parallels: For many years employers in industry have hailed each step in the movement toward shortening working hours with dire fears of impending bankruptcy. Today when the eight hour day — and less — is a wide industrial fact, industry is at probably the most prosperous level in its history. Experience, again, has already showed the Pullman Company itself that a 240 hour basis would not "work detrimentally for the Company" when established for its conductors. Finally, society has come to regard those industries which can make financial returns only by overworking and underpaying their employees as "parasitic industries." Surely, the Pullman Company would never wish even to approach this category.

(b) "...it would work also detrimentally to the porters, since it would result in cutting their runs down to a point where they would not make more than 240 hours per month with the result that they would be cut off at intermediate points and lose very largely on the tips in consequence." Once again, we have here the use of the tip argument to oppose demands for human working conditions. The Brotherhood of Sleeping Car Porters asks the abolition of the tipping system; and it feels that every time the Pullman Company uses an argument such as this above, it furnishes further testimony as to the justice of the Brotherhood's demand.

(See: Full Report of Case: Section XVI, Part 4, pp.
Digest of Report: Section XVI, pp.
Exhibits on Company's Arguments. Nos.)

4. Against demands for a computation of service time as continuous from the time of reporting for duty until released, the Company has argued that

(a) 'Like the demand for a 240 hour basic month, it would be detrimental to the Company.' The same counter-arguments may be advanced here as above.

(b) 'Preparatory and terminal time should not rightly be paid for since the porter is paid for the month and thus should not care whether the car is turning wheels or not when he labors. Just as he would not ask pay when tending a private car that has stopped for some time for sight-seeing or when a car is used for hospital purposes during a cyclone, he sould not ask it for preparatory and terminal time.

If it should not matter to the porter whether the labor for which he is paid id done on a running or stationary car, it should similarly not matter to the Company whether it pays for the labor done on a moving or a stationary car. Yet the Company is careful to base pay only upon the labor performed upon moving cars -- on mileage. Obviously, it does matter to a worker even when paid by the month whether he labors 240 hours or 348; whether he earns overtime after 240 hoursor after 366. Preparatory and terminal time are given continually in the regular course of duty; parked cars and national disasters are a false and spurious analogy to such labor. Would any factory workers similarly be willing to receive time payment and regularly put in 50 hours extra labor in preparing the factory for work and clearing it afterward?

(See Full Report of Case: Section XVI, Part 5, pp.
Digest of Report: Section SVI, pp.)

6. Against the general program of demands thus put forward, the Company has argued that

(a) 'The porter's task is a simple one with little responsibility and of a non-essential character.' Surely the Company's own expressions of the value of the porter, the 217 specific duties with which it charges him, his crucial position in the accumulation of the Company's earnings are contradictions of this argument. Moreover, the Company has said similar things against granting the conductors these same demands.

(b) 'There is a full labor market from which the Company can draw men ready to do the porter's work under the conditions offered.' If the Company should recruit an entirely new force and offer them these wages and working conditions, it would only be a matter of time before the new group of workers would be making the identical demands the present group is making. For, these wages and working conditions against which we now protest are fundamentally unjust and unsatisfactory. Consequently, they carry their own protest. Moreover, the Company knows that in reality that this argument of a total turnover in the working force is a far fetched one. Finally, here too, it made the same argument against the demands of the conductors which it has since found itself able to meet in spite of theoretical large labor supply.

7. Against the demand for independent representation the Company has offered no straight forward counter-argument. It has hinted at the agitator origin of the movement which had a powerful enough appeal to win over half of its employees in spite of all difficulties. The Brotherhood of Sleeping Car Porters is willing to submit its case and its status to any responsible and impartial body, is submitting it to the machinery of the Federal Watson-Parker Law. Is the Pullman Company willing to do likewise?

XI. THE PULLMAN COMPANY CAN AFFORD TO GRANT THE DEMANDS OF ITS PORTERS AND MAIDS, FOR

1. The entire history of the Pullman Company is replete with the details of an impressive financial growth and prosperity. Incorporated on February 22, 1967, it has been enlarged by absorbing in 1899 the Wagner Palace Car Company, Mann's Boudior Car Company (99% of the stock), the Union Palace Car Company, and the Woodruff Sleeping and Parlor Car Company. Moreover, the Pullman Company is a "a vertical trust", owning and operating the Pullman Car & Manufacturing Corporation, which in 1921 was enlarged by the purchase of the Haskell & Barker Car Company.

(See: Full Report of Case: Section XVII, Parts 1-2, pp.
Section II, Part 3, pp.
Digest of Report: Section XVII, pp.
Section II, pp.
Exhibits on the Pullman Company, Nos.)

2. In the course of this history the Pullman Company has paid enormous dividends to stockholders. The total cash investment in the Company has been only about $32,300,000. In 1897 the total stock capitalisation was $36,000,000. In the course of the Compny's history $64,000,000 worth of stock dividends have been paid out of surplus. (In 1898, in 1906 and 1910). The Wagner properties and the Haskell properties were pruchased by stock payments. The present capitalization of the Company is $135,000,000. Since 1897 the huge total of $268,425,000 has been distributed by the Company in the form of case dividends, and as above indicated, an additional $64,000,000 in stock dividends. Since the Company owns the stock of its car manufacturing Company, it pays also dividends out of its earnings. Dividend rates calculated on the 1897 capital of $36,000,000 and thus representing the real return to investors, reveal earnings steadily above 8% and at present of 19.2%, (from 1911 to 1926).

(See Full Report of Case: Section XVII, Part 3, pp.
Digest of Report: Section XVII, pp.
Exhibits on the Pullman Company, Nos.)

3. Obviously such large dividends are based upon great prosperity. The earnings of the Pullman Company from 1922 through 1926 show a gross income of $426,000,000 and a net income of $66,000,000. Net additions to Surplus of $17,000,000 have been made during the period. Income, moreover, has steadily increased during these years. The total profit for 1926 has been $20,124,000 by far the largest profit the Company ever earned.

(See Full Report of Case: Section XVII, Part 4, pp.
Digest of Report: Section XVII, pp.
Exhibits on the Pullman Company, Nos.)

4. The balance sheet presented by the Pullman Company at the close of its last fiscal year, July 31, 1926, is an imposing statement of financial strength. In 1926 the total book assets of the Company reached the huge figure of $200,942,000; liabilities amount only to $22,070,000, leaving a stockholders' equity of no less than $178,872,000. Even in these figures there are questionable elements in the calculation of fixed assets: (1) No less than 43% has been written off for depreciation of cars: (2) the stock of the Manufacturing Company is included among the assets at a valye of $36,780,000. Yet the dividend paid by the Company at a rate of 6% indicates a total outstanding stock of $54,166,125. It is at least possible, then, that some undervaluation enters into the size of the fixed assets as stated. Finally, current assets are more than twice as great as current liabilities, and the Company has no bonded or funded indebtedness of any kind and no interest to pay.

(See: Full Report of Case: Section SVII, Part 5, pp.
Digest of Report: Section SVII, pp.
Exhibits on the Pullman Company, Nos.)

5. Market quotations for Pullman stock and operating statistics hold further indications of the Company's unquestioned ability to pay a living wage and to grant decent working conditions to all its workers. On December 1, 1926 Pullman stock sold on the Exchange at 188, the highest record achieved since 1911. The number of passengers carried in 1926 increased no less than 5% over those carried in 1925.

(See: Full Report of Case. Section SVII, Parts 6-7, pp.
Digest of Report: Section SVII, pp.
Exhibits on the Pullman Company, Nos.)

6. During the Joint Conference of 1926, the Pullman Company opposed the demands put forward by representatives of the porters and maids on the ground that it could not, (among other things) afford to meet the costs of such demands during periods of depression. It must appear from this financial record that the Company has no immediate prospects of depression. Present demands, if granted, must be met out of the returns of a long prosperity. But if depression should in time come, a union of the porters and maids, such as the Brotherhood of Sleeping Car Porters, would, of course, as all unions, be willing to negotiate the question of wage rates to ascertain by mutual conference whether any deductions are made necessary by the temporary losses of the depression period.

XII. HERE THE BROTHERHOOD OF SLEEPING CAR PORTERS RESTS ITS CASE, FOR

1. It has proved that all the pertinent facts, principles and American standards support the demands it makes in the name of the Pullman porters and maids.

2. The Pullman Company has offered no valid argument against granting any of these demands.

3. The Pullman Company can afford to grant these demands.

ASA PHILIP RANDOLPH

SUBJECT FILE

BROTHERHOOD OF SLEEPING
CAR PORTERS

Legal Papers

Agreements and Court cases

1927-33
+ undated

CONTRACT

BELMORE JEWELRY COMPANY
104-5th AVENUE
NEW YORK, N.Y.

This AGREEMENT, made this ..Tenth........day of.Sept..... One Thousand Nine Hundred and .Twenty Seven... BETWEEN Belmore Jewelry Company, New York City, party of the first part, hereinafter called "THE COMPANY" and

Brotherhood of Sleeping Car Porters

of the second part and hereinafter called the "ORGANIZATION".

WITNESSETH: That the said Company agrees to and with the said Organization as follows:

1. The said Company will conduct and manage for the said Organization, a money raising Campaign, furnishing and securing therefor all the necessary advertising and merchandise.

2. The said Company will save harmless and keep indemnified in the event of an unsuccessful Campaign, the said Organization of and from all expense and loss.

3. The said Company will provide and furnish all goods to be used at and during the said Campaign and after its close, giving the said Organization full credit for all unused merchandise, charging the Organization with only that which is sold.

And the Organization in consideration of this agreement made by and with the said Company and of the further consideration hereinafter expressed, agrees with the said Company as follows

1. The said Organization agrees to give such assistance as will tend to make the said Campaign a success financially and otherwise, and will allow the said Company to distribute among the members of the said Organization the said Premium books and literature.

2. It is further agreed that the representative of the said Company shall be the Director of the said Campaign and shall have the superintendance and management thereof.

It is mutually agreed, after the payment of all expenses and liabilities incurred in conducting and managing the said Campaign, or in any connection therewith, the profits shall be divided between the Company and the Organization in equal parts, share and share alike, but in the event of a loss, as before mentioned, said loss is to borne and sustained solely and entirely by the Company.

The said Campaign is to be held for eight (8) consecutive weeks, or longer, starting from the day the books are delivered.

IN WITNESS WHEREOF the said Company by its representative and the said Organization by its ..President.. have hereunto set their hands and seal, the day and year first above written.

BELMORE JEWELRY COMPANY.

WITNESS: Frank R. Crosswaith

Roy Lancaster Secty Treas

CONTRACT

between

BELMORE JEWELRY COMPANY.
Party of the first part

and

....

....

Party of the second part

....

AGREEMENT between BROTHERHOOD OF SLEEPING CAR PORTERS, an unincorporated association, by Shepard Grain, its Secretary, party of the first part, and party of the second part,

WITNESSETH:

For and in consideration of One ($1) dollar, and other good and valuable consideration, receipt of which is hereby acknowledged,

IT IS HEREBY MUTUALLY UNDERSTOOD AND AGREED:

FIRST: The party of the first part shall furnish for the purpose of an exhibition to be held on August 1st, 1931, the Amusement Park known as "Yankee Stadium" in the City of New Yofk.

SECOND: The party of the second part shall furnish an exhibition consisting of two games of baseball by teams known as "Harlem Stars" and either the "Baltimore Black Sox" or "Hilldale" of Philadelphia, Penna, or the"Pittsburgh Grays" of Pittsburgh, Pa.

THIRD: The teams shall play two games at the Yankee Stadium on the said day, the first game to commence at 1:30 12 p. m. and the second game to commence thirty (30) 4 minutes after the close of the first game, this series of games being known and described as a "Double Header".

FOURTH: The party of the second part agrees that the regular players of said teams shall be present and shall participate in the said games, properly uniformed and equipped to render such exhibition.

FIFTH: The party of the second part shall furnish proper gate men, keepers and special policemen to properly man the said stadium during the exhibitions at the cost and expense of said management and shall be borne by the parties hereto in the ratio of fifty (50%) per cent to each of the parties.

SIXTH: The price for admission to the said games for the entire exhibition shall be Fifty (50¢) cents, One ($1) dollar and One dollar and fifty cents ($1.50); the price to be regulated by the seat purchased for the exhibition by the patron.

All of the seats shall be sold by proper tickets for admission thereto.

SEVENTH: The entire receipts of the exhibition, after deducting the expenses for manning the stadium as aforesaid, shall be divided among the parties hereto in the ratio of Fifty (50%) per cent to each of the parties to this agreement up to and including a Ten Thousand ($10,000) Dollar gross gate receipt.

Should the gross gate receipts be more than Ten thousand ($10,000) dollars, on the excess above said sum the ratio shall be Sixty (60%) per cent to the party of the first part and Forty (40%) per cent to the party of the second part.

EIGHTH: The party of the first part shall advertise the games in a proper manner in its discretion and at its own cost and expense.

NINTH: In case of rain or other contingency not caused by the wilful default of either of the parties hereto, the games shall be played on the Saturday next succeeding, to wit, August 8th, 1931, at the same time and place.

ELEVENTH: The party of the second part shall furnish proper umpires or referees, such persons to be reputable and experienced for such purpose.

TWELFTH: That at the close of the exhibition the party of the first part shall cause a just and true accounting of all tickets sold and of monies received to be made to the party of the second part herein.

IN WITNESS WHEREOF the parties hereto have set their respective hands and seals this day of July, 1931.

BROTHERHOOD OF SLEEPING CAR PORTERS,

In the presence of: By:________________________________
Secretary

____

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Dated: July [illegible], [illegible].

J. [illegible] [illegible]
Attorney-at-Law
[illegible]
New York City

BEST COPY AVAILABLE

DOCUMENT IS DAMAGED IN THE ORIGINAL

578 —Subpoena for Examination of Judgment Debtor, Supplementary Proceedings. Municipal Court Judgment. Good for any County.

Everprompt Printing Co., Inc.
New York, N. Y.

CITY COURT OF THE CITY OF NEW YORK,
COUNTY OF NEW YORK

In the Matter of Supplementary Proceedings

GENERAL STATIONERY CO. INC.

Judgment Creditor

against

THE BROTHERHOOD OF SLEEPING CAR PORTERS

Judgment Debtor

Civil Practice Act
Art. 45, Sec. 773a

The People of the State of New York

To THE BROTHERHOOD OF SLEEPING CAR PORTERS BY A.L. TOTTON, Secretary
Judgment Debtor

GREETING:

WHEREAS, a certain judgment in the sum of $ 31.01 *has been recovered by the above named judgment creditor against the above named judgment debtor in an action entitled* General Stationery Co. Inc. *plaintiff against* The Brotherhood of Sleeping Car Porters *defendant in the Municipal Court of the City of New York, Borough of* Manhatta, Second *District, on the* 13th *day of* October *, 193*2*, and said judgment having been docketed in the office of the clerk of said Municipal Court, borough and district aforesaid, on the* 13th *day of* October *, 193*2.

NOW, THEREFORE, WE COMMAND YOU, and each of you, to appear and attend before one of the justices of the CITY COURT OF THE CITY OF NEW YORK in and for the County of New York *AT A SPECIAL TERM, PART* II *thereof to be held at the Court House, at* 52 Chambers Street, Borough of Manhattan, City of New York *on the* 25th *day of* January*, 193*3*, at* 10 *o'clock in the* fore*noon, to be examined under oath concerning your property; and For a failure to attend you will be deemed guilty of a contempt of court and liable to punishment in accordance with article forty-five of the civil practice act.*

WITNESS, Honorable Edward B. LaFetra *, one of the Justices of the City Court of the City of New York, at the Court House, in the County of* New York *the* 24th *day of* October *, 193*2.

ARTHUR L. KRAUT

Attorney for Judgment Creditor
Office and Post Office Address
305 Broadway,
Borough of Man. *, City of New York*

Harry C. Perry
Clerk,

CITY COURT
OF THE CITY OF NEW YORK
COUNTY OF NEW YORK

In the Matter of Supplementary Proceedings

GENERAL STATIONERY CO. I

Judgment Creditor
against

THE BROTHERHOOD OF
SLEEPING CAR PORTERS
239 W. 136th St
nyc.
Judgment Debtor

Subpoena

For Examination of Judgment Debtor
(Supplementary Proceedings)

Municipal Court Judgment

ARTHUR L. KRAUT
Attorney for Judgment Creditor
(Office and Post Office Address)
305 Broadway,
Borough of Manhattan
City of New York.

1102-7875

STATE AND CITY OF NEW YORK, COUNTY OF

being duly sworn, deposes and says: that he is above the age of and a resident of the City of

That on the day of , 193 , at No.
in the Borough of , City of New York, he served the within Subpoena on by delivering to and leaving personally with
a true copy thereof, and at the same time exhibiting to the within original subpoena.

Deponent further says that he knew the person so served as aforesaid to be the individual mentioned and described in said Subpoena.

Sworn to before me this
day of , 193

COUNTY OF

In the Matter of Supplementary Proceedings

Judgment Creditor
against

Judgment Debtor

Affidavit of Service.

SUPREME COURT :: ONEIDA COUNTY

WILLIAM R. GOLDBAS,

Plaintiff,

-against-

A. PHILIP RANDOLPH, as President of the BROTHERHOOD OF SLEEPING CAR PORTERS,

Defendant.

Plaintiff complaining of the defendant and for a cause of action alleges as follows:

FIRST:

That the Brotherhood of Sleeping Car Porters is a voluntary unincorporated association of more than seven members, located at New York City, and that A. Philip Randolph above named is the President thereof.

SECOND:

That plaintiff, at all the times hereinafter mentioned was, and now is, an attorney and counselor at law, practicing his profession as such at the City of Utica, Oneida County, New York.

THIRD:

That between the 20th day of May, 1931, and the 28th day of September, 1932, plaintiff performed professional services for said defendant, at its special instance and request, in the trial of James E. Smith on an indictment charging him with assault in the First Degree found by a Grand Jury of Oneida County, which trial occurred on the 26th and 27th day of September, 1932, at the Oneida County Court, held in Rome, New York; that plaintiff necessarily expended time and effort in preliminary work in the preparation of said trial and defense.

FOURTH:

That the plaintiff and defendant entered into an agreement wherein the plaintiff agreed to perform the necessary services in the preparation and trial of the aforementioned action and the defendant agreed in consideration thereof to pay to the plaintiff the sum of Five Hundred Dollars ($500.00) therefore, and the plaintiff accepted said retainer.

FIFTH:

That plaintiff has received on account of said Five Hundred Dollars ($500.00), the sum of Two Hundred Dollars ($200.00), leaving a balance due, owing and unpaid of Three Hundred Dollars ($300.00), for which demand has been made.

WHEREFORE, plaintiff demands judgment against the defendant in the sum of Three Hundred Dollars ($300.00), with interest from September 28th, 1932, besides the costs and disbursements of this action.

WILLIAM R. GOLDBAS,
Attorney for Plaintiff,
Office and Post Office Address,
Rooms 42-43
230 Genesee Street,
Utica, New York.

SUPREME COURT :: ONEIDA COUNTY

WILLIAM R. GOLDBAS,

Plaintiff,

-against-

A. PHILIP RANDOLPH, as President of the BROTHERHOOD OF SLEEPING CAR PORTERS,

Defendant.

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiff's attorney within twenty days after the service of this summons, exclusive of the day of service. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Trial to be held in the County of Oneida.

Dated the 10th day of
January 1933.

WILLIAM R. GOLDBAS,
Attorney for Plaintiff,
Office and Post Office Address,
Rooms 42-43
230 Genesee Street,
Utica, New York.

State of New York

COUNTY OF Oneida } ss.:
City OF Utica

William R. Goldbas *being duly sworn deposes and says that* he is *the* Plaintiff *in this action; that he has read the foregoing* Complaint

and knows the contents thereof; that the same is true to the knowledge of deponent, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

Sworn to before me this 10th
day of January *1933.*

William R. Goldbas

Gordon Samuels.
Commissioner of Deeds in and for the City of Utica, New York.

COURT.

against

Affidavit of service.

State of New York

COUNTY OF ________________ } ss.:
________ OF ________________

being duly sworn, says that he is over the age of twenty-one years, that on the days, and at the places below stated opposite their respective names, he served the foregoing annexed summons and personally upon each of the defendants below named, by delivering to and leaving with each of them personally a true copy thereof, to wit:

________________ *on the day of 19 , at* ________________ *N. Y.*
________________ *on the day of 19 , at* ________________ *N. Y.*
________________ *on the day of 19 , at* ________________ *N. Y.*
________________ *on the day of 19 , at* ________________ *N. Y.*
________________ *on the day of 19 , at* ________________ *N. Y.*
________________ *on the day of 19 , at* ________________ *N. Y.*
________________ *on the day of 19 , at* ________________ *N. Y.*

that the persons so served as aforesaid were to deponent known to be the same persons mentioned and described in said annexed summons as defendants therein.

Sworn to before me this
day of , 19 .

____

____

____

Sir: Take notice of an..........
....
of which the within is a copy, duly granted in the within entitled action, on the ....day of ....193 , and duly entered in the office of the Clerk of the County of...........................on the ....day of...........193..

Dated....................., N. Y.,
......................193..

WILLIAM R. GOLDBAS
Attorney for

Office and Post Office Address
Rooms 42-43
230 Genesee Street
UTICA, N. Y.

To.......................................
Attorney for.........................

SUPREME COURT
ONEIDA COUNTY

WILLIAM R. GOLDBAS,
Plaintiff,
-against-
A. PHILIP RANDOLPH, as President of the BROTHERHOOD OF SLEEPING CAR PORTERS,
Defendant.

COPY
SUMMONS AND COMPLAINT

#239 West 136th St.

WILLIAM R. GOLDBAS
Attorney for Plaintiff

Office and Post Office Address
Rooms 42-43
230 Genesee Street
UTICA, N. Y.

Due and personal service of the within ....is admitted this......day of......193..

....
Attorney for........................

2/23/33 not in

53-2005-32-B

SHERIFF'S OFFICE
COUNTY OF NEW YORK
HALL OF RECORDS
31 CHAMBERS STREET

Supreme COURT

William R. Goldbas

against

A. Philip Randolph as president of the Brotherhood of Sleeping Car Porters

EXECUTION issued
for $ 331.86 + sheriff's fees
Plaintiff's Attorney,
Address of Defendant,

By virtue of a writ of **EXECUTION** I have this 12th day of April 1933, levied upon the personal and real property of the judgment debtor within the County of New York, leviable under execution, sufficient to satisfy the execution in the above-entitled action.

KINDLY CALL AT THIS OFFICE IN REGARD TO THE ABOVE ENTITLED ACTION

John E. Nagle
JOHN E. NAGLE
Deputy

JOSEPH T. HIGGINS
Sheriff

MUNICIPAL COURT OF THE CITY OF NEW YORK:
BOROUGH OF MANHATTAN: FIRST DISTRICT.

LIBERAL PRESS INC.,

Plaintiff and Judgment-Creditor

-against-

ASHLEY TUTTEN, as Secretary and Treasurer of the BROTHERHOOD OF SLEEPING CAR PORTERS, Local # 18068, an unassociated organization consisting of more than seven members.,

Defendant and Judgment-Debtor.

IT IS HEREBY STIPULATED AND AGREED by and between LOUIS L. BUCCIARELLI, attorney for the plaintiff herein, and A. PHILLIP RANDOLH ESQ., President of Brotherhood of Sleeping Car Porters, judgment-debtor, that the judgment heretofore entered, upon which there is a balance due of $488.14, be and the same hereby is settled for the sum of $272.00, which said amount is to be paid as follows:

$100.00	on September 15th, 1935.
100.00	on October 15th, 1935
35.00	on November 1st, 1935
37.00	on November 15th, 1935.

IT IS FURTHER STIPULATED AND AGREED by the parties hereto that this stipulation supplements the stipulation heretofore entered into on the 27th day of March, 1935.

In the event the payments are not made as above described, the plaintiff then and there is entitled to proceed and enforce collection of the balance due on the judgment, provided ten days written notice is given to said A. PHILLIP RANDOLPH, of their intention to enforce further collection.

When payment is made in pursuance to the terms of this agreement, the plaintiff and/or its attorney agrees to deliver and execute a satisfaction of the judgment to said A. PHILLIP RANDOLPH, as President of the Brotherhood of Sleeping Car Porters.

Dated, New York, August 21st, 1935.

Louis L Boccumi
Attorney for Plaintiff and Judgment-
Creditor.

BROTHERHOOD OF SLEEPING CAR PORTERS

BY______________________________
President.

MEMBERS of the NATIONAL EXECUTIVE BOARD of THE BROTHERHOOD of SLEEPING CAR PORTERS:

We are vitally concerned with the difficulty our organization has in keeping a step ahead of its financial disbursements. We should be primarily interested in anything which is conducive to the continuous success of our organization. Not only are we unable to create a sizeable Treasury, but find it trying to obtain sufficient funds to adequately compensate our officers who are so efficiently and loyally serving us.

Seriously, it is timely, that The Brotherhood of Sleeping Car Porters, gravely consider the establishment of methods that will be helpful in advancing the organization, From my point of view, I believe the first effort in resh reshaping our program should be made in securing the Brotherhoo hood's future through the use of Insurance.

Since the organization was built up around Mr. A. Philip Randolph, our President, it is necessary, and proper for the organization to be compensated in event of the loss of that valuable life, through Insurance, which is economically sound; because of the facts: First, that the organization's credit and public confidence is largely based upon the ability and character of Mr. Randolph. Second, that the credit and public confidence should be maintained. All of which can, and should be secured through Life Insurance, payable to the Organization, The Brotherhood of Sleeping Car Porters.

We do not know when the question of how much insurance is carried on the life of the important member of the firm Brotherhood, when we are seeking credit. It is very interesting to note an expression of opinion by John Wanamaker, who said; Quote, Twenty years ago, I had a capital of about one-half million dollars. I then realized that a business man with one-half million dollars of capital and one million and one-half of insurance on his life would have better credit in business than one with one-half million capital and no insurance -- so I took the insurance. I now find that trading on the credit I created. I made more profit than if the money which went into insurance had gone directly into my business. End of quotation.

The many notices in the press indicate the need to prevent recurrence of business houses becoming embarrassed by the death of one of its important members and in some cases followed by dissolution of the firm. The following case received considerable publicity in the Journals of this County: The death of Benjamin Harris, president of the B. T. Harris Corporation, Stamford, Conn. With $1,200,000 Corporation Insurance and $250,000 personal Insurance, is a matter of public record. Mr. Harris was a man who was the brain power in the development of the Corporation and everything was built around him. And the bankers, William C. Simmons Inc., in selling the bonds insisted upon a million dollars of Insurance being carried on the life of Mr. Harris to protect the bonds in addition to the property; realizing in the event of Mr. Harris's unexpected death, it would be very hard to liquidate the property. Six months after the insurance was written, Mr. Harris was drowned. As a result of the Insurance, the bonds were called and the other security which was held against the bonds, was released, leaving the Company not only in good liquidated form, but with no outstanding obligations other than capital stocks.

The following is a partial list of Insurance Cases carried by organizations on the lives of important Executives:

Art Cinema Corporation, and United Artists Theatre Corporation, on the life of Joseph Scheneck -	$3,000,000
Curtis Candy Co., Y. Schnering, President -	2,000,000
Marshal Field & Co., Ill on Marshall Field -	1,000,000
Louis F. Swift, of Swift & Co., Packers -	1,750,000
General Motors Research Corp., Dayton Ohio Charles F. Kettering, Pres.	4,000,000
Rodman Wanamaker, Head of Wanamaker Stores, N.Y.	7,500,000
Adolph Zukor, Motion Picture Magnate, N.Y.	5,000,000

The above gives an indication of the way in which business is protecting itself against the loss of its "Key Men." Compare Mr. Randolph's importance to the Organization with that of above mentioned persons.

Now, Gentlemen, what I am about to add is history and the property of every loyal Brotherhood man. Everyone of us is aware that our President, Mr. Randolph is underpaid in salary. And despite that fact of utmost importance, he maintains his position with a fortitude akin to an idealist. I venture to say that he loves and cherishes his home surroundings. His wife's loyalty and fortitude which she has shown for the past Eleven 11 bitter and lean years of our struggle without a question as to the possibility of a lack of future security in the economic existence which she must face in the event of her husband's passing before her.

Now, Gentlemen, it is now time that we, The Brotherhood Members, over 6,000 strong, organize ourselves to protect not only the organization, but the wife of our President as well.

It is a known fact to everyone vitally concerned, that Mr. Randolph, were he otherwise vocationally occupied, would have been and could have been in a position financially to protect his wife's future welfare.

About 80% of the porters whom Mr. Randolph now serves most faithfully, have their wives and dependants protected

b

by insurance ranging from $2,000 to $10,000. The "Key Man" of our organization, what has he by way of securing his wife's economic security without embarrassment to her station in life. And this situation is absolutely no fault of our Mr. Randolph.

The age limit and present physical condition of Mr. Randolph makes it imperitive that we devise ways and means to act immediately in obtaining security both for the organization and Mrs. Randolph. To be more explicit, Gentlemen, I suggest that the Brotherhood have issued by a well founded Insurance Company, a Corporation Policy of say, $25,000 on the life of our esteemed President, A. Philip Randolph. In conclusion, I here add, Gentlemen, that I am quite aware that there are amongst you, men who have worked diligently and made noteworthy sacrifices for our organization but our "Key Man" you will all no doubt recognize, is Mr. A. Philip Randolph, and as such he should be valued. My appeal should not be viewed as narrow or selfish, but as a means of protecting The Brotherhood of Sleeping Car Porters against the loss of the services of its "Key Man," in the event of his demise.

ASA PHILIP RANDOLPH

SUBJECT FILE BROTHERHOOD OF SLEEPING CAR PORTERS

Legal Papers

Railway Labor Disputes And Settlements

1933–51

(1)

L. & T. No.................

STATE OF NEW YORK
City of New York, County of New York, } ss.:

Municipal Court of the City of New York,
Borough of Manhattan 10 **District.**

13756

Sarah Balaban Landlord
against
Pulport Company Tenant
Undertenant

First name of Tenant and/or Undertenant being fictitious and unknown to petitioner
Person intended being in possession of the premises herein described

Copy Precept
NON-PAYMENT
(Business)

The People of the State of New York:

To the Tenant Pulport Company

and Undertenant above named and described, in possession of the premises hereinafter described or claiming the possession thereof:

Greeting: You are hereby required forthwith to remove from the premises designated and described as follows, to wit:

the on the floor side, in Building and premises known as Number 239 West 136 Street Borough of Manhattan, 10 Municipal Court District, in the City of New York, or ~~appear and make answer at the Municipal Court of the City of New York, Borough of Manhattan,~~ show cause 10 District, before the CLERK of said Court at his office at 1 West 125 Street in the Borough of Manhattan, in the City of New York, within *FIVE DAYS after the service of this precept, why the possession of said premises should not be awarded and delivered to the said Landlord.

Take notice that demand is made in the petition herein for judgment against you, the Tenant, for the sum of $150.00 with interest thereon from June 1st 1933.

Witness, Hon. James Watson one of the Justices of our said Municipal Court, at the City of New York and dated the 20 day of June 1933

(READ CAREFULLY)

LOUIS RICHWALD
Clerk of said Court.

To the above named Tenant: Pulport Company

TAKE NOTICE that, if the premises designated in the foregoing precept are occupied by you for BUSINESS PURPOSES, and you file no answer with the clerk WITHIN FIVE DAYS after service hereof on you, the issuing of a WARRANT, DISPOSSESSING you from said premises will be STAYED without application to the Court until TEN DAYS AFTER SERVICE OF THESE PAPERS upon you, *unless with the precept there is served on you a notice of motion and affidavit* directing you to appear before the court at a certain time and place, for the reason the landlord desires immediate possession of the premises. In that event it is essential that you appear before the Justice at the time stated therein.

LOUIS RICHWALD
Clerk of said Court.

* *Court hours, 9 a. m. to 4 p. m. (Saturdays, 9 a. m. to 12 m.)*
During July and August, 9 a. m. to 2 p. m. (Saturdays, 9 a. m. to 12 m.)

CIVIL PRACTICE ACT OF THE STATE OF NEW YORK
Section 1422 Duty of person to whom copy of precept is delivered.

A person to whom a copy of a precept directed to another is delivered, as prescribed in this article, must deliver it to the person to whom it is directed, without any avoidable delay, if he can be found within the same town or city; or, if he cannot be so found, to his agent therein; and if neither can be so found after the exercise of reasonable diligence before the time when the precept is returnable, to the judge or justice who issued the same at the time of the return thereof with a written statement indorsed thereupon that he had been unable after the exercise of reasonable diligence to find the person to whom the precept is directed or his agent within the town or city. A person who willfully violates any provision of this section is guilty of a misdemeanor; and, if he is a tenant upon the property, forfeits to his landlord the value of three years' rent of the premises occupied by him. A copy of this section must be indorsed upon each copy of a precept served otherwise than personally upon the person to whom it is directed.

1226B Copy Petition Non-Payment Business (Latest Form) **No. 4** M. L. Goldman, Law Blank Publisher, 3 Park Place, New York

COPY

PETITION—NON-PAYMENT OF RENT

To the Municipal Court of the City of New York, Borough of Manhattan, 10 District,

The petition of Frances Auerbach ~~of~~ said City, respectfully shows that your Petitioner is the Agent in respect to the premises hereinafter described of Sarah Balaban who is the Owner in fee of and Landlord of the premises hereinafter described and that ~~your petitioner as such~~ ~~Agent for~~ said Landlord ~~on or about the~~ ~~day of~~ ~~A. D., 19~~ entered into an agreement with Pulpart Company

First name of Tenant being fictitious and unknown to petitioner. Person intended being in possession of the premises herein described

as Tenant thereof, and that by the terms of said agreement, the said Tenant ~~hired from the~~ said Landlord **FOR BUSINESS PURPOSES** the premises described and designated as follows:

the ~~on the~~ ~~floor~~ ~~side, in~~ Building and premises known as Number 239 West 136 Street which is situated within the territorial jurisdiction of the Municipal Court of the City of New York, Borough of Manhattan, 10 Municipal Court District, and that the said Tenant in and by said agreement undertook and promised to pay to the said Landlord the sum of $ 150.00 Dollars per month, payable monthly in advance on the 1 day of each month for the use and occupation of said premises. That the said Tenant entered into the possession of said premises and still occupies the same.

That on the 1 day of June 1935, there was due to the said Landlord under and by virtue of said agreement, the sum of $ 150.00 Dollars for one month rent of said premises before described, to wit, from the 1 day of June 1935 to the 30 day of June 1933

and your petitioner further shows that said rent has been demanded personally from the said Tenant since the same became due, and that said Tenant has made default in the payment of said rent pursuant to the agreement under which the said premises are held, and that said Tenant , and Undertenant holds over and continues in possession of said premises without the permission of the said Landlord after default in the payment of the rent as aforesaid and that your petitioner is duly authorized to institute and maintain these *Proceedings* to dispossess said Tenant and those claiming possession under the said Tenant . That your petitioner herein demands judgment against the Tenant for rent in arrears during the months of June at $ 150.00 per month; said rent being due and payable on the 1 day of each of said respective months and that the total rent in arrears is $ 150.00

Wherefore, your petitioner prays for a final order awarding to the Landlord the possession of said premises together with costs of these proceedings; and for a Warrant to remove said Tenant and Undertenant from the possession of said premises; and for judgment for rent in arrears for the sum of $ 150.00 with interest from the 1 day of June 1933, together with costs and disbursements in this proceeding.

Dated New York June 20, 1935 Frances Auerbach
Petitioner

CITY OF NEW YORK, COUNTY OF NEW YORK, ss.:

Frances Auerbach

Being duly sworn doth depose and say that deponent is the petitioner in the foregoing petition and has heard read said petition and that the contents of said petition by said petitioner subscribed are true to the knowledge of deponent, except as to those matters therein stated to be alleged on information and belief, and as to those matters deponent believes the same to be true.

That deponent is the agent of said Landlord and all the material allegations set forth in said Petition are within the personal knowledge of deponent as agent for said Landlord for which reason this verification is made by this deponent and not by said Landlord.

That the reason this verification is not made by the Landlord in person ~~is that the said Landlord~~ is a domestic corporation and your ~~deponent is an officer thereof to wit its~~..........and that the information above stated is from the books and records of the corporation.

Sworn to before me this 20
day of June 1933 Frances Auerbach

Bernstein
~~Commissioner of Deeds, New York City,~~
Notary Public, New York County. 1466

NO. 283.--OCTOBER TERM, 1940.

Railroad Commission of Texas, Lon A.
Smith, Ernest O. Thompson, et al.,
Appellants,

vs.

The Pullman Company, Guy A. Thompson,
Trustee, The St. Louis, Brownsville
and Mexico Railway Company, Debtor,
et al.

Appeal from the District Court
of the United States for the
Western District of Texas.

(March 3, 1941.)

Mr. Justice Frankfurter delivered the opinion of the Court.

In those sections of Texas where the local passenger traffic is slight, trains carry but one sleeping car. These trains, unlike trains having two or more sleepers, are without a Pullman conductor; the sleeper is in charge of a porter who is subject to the train conductor's control. As is well known, porters on Pullmans are colored and conductors are white. Adressing itself to this situation, the Texas Railroad Commission after due hearing ordered that "no sleeping car shall be operated on any line of railroad in the State of Texas . . . unless such cars are continuously in the charge of an employee . . . having the rank and position of Pullman conductor". Thereupon, the Pullman Company and the railroads affected brought this action in a federal district court to enjoin the Commission's order. Pullman porters were permitted to intervene as complainants, and Pullman conductors entered the litigation in support of the order. Three judges having been convened, Judicial Code, Sec. 266, as amended, 28 U. S. C. Sec. 380, the court enjoined enforcement of the order. From this decree, the case came here directly. Judicial Code, Sec. 238, as amended, 28 U. S. C. Sec. 345.

The Pullman Company and the railroads assailed the order as unauthorized by Texas law as well as violative of the Equal Protection, the Due Process and the Commerce Clauses of the Constitution. The intervening porters adopted these objections but mainly objected to the order as a discrimination against Negroes in violation of the Fourteenth Amendment.

The complaint of the Pullman porters undoubtedly tendered a substantial constitutional issue. It is more than substantial. It touches a sensitive area of social policy upon which the federal courts ought not to enter unless no alternative to its adjudication is open. Such constitutional adjudication plainly can be avoided if a definitive ruling on the state issue would terminate the controversy. It is therefore our duty to turn to a consideration of questions under Texas law.

The Commission found justification for its order in a Texas statute which we quote in the margin.[1] It is common ground that if the order is within the Commission's authority its subject matter must be included in the Commission's power to prevent "unjust discrimination . . . and to prevent any and all other abuses" in the conduct of railroads. Whether arrangements pertaining to the staffs of Pullman cars are covered by the Texas concept of "discrimination" is far from clear. What practices of the railroads may be deemed to be "abuses" subject to the Commission's correction is equally doubtful. Reading the Texas statutes and the Texas decisions as outsiders without special competence in Texas law, we would have little confidence in our independent judgment regarding the application of that law to the present situation. The lower court did deny that the Texas statutes sustained the Commission's assertion of power. And this represents the view of an able and experienced circuit judge of the circuit which includes Texas and of two capable district judges trained in Texas law. Had we or they no choice in the matter but to decide what is the law of the state, we should hesitate long before rejecting their forecast of Texas law. But no matter how seasoned the judgment of the district court may be, it cannot escape being a forecast rather than a determination. The last word on the meaning of Article 6445 of the Texas Civil Statutes, and therefore, the last word on the statutory authority of the Railroad Commission in this case, belongs neither to us nor to the district court but to the supreme court of Texas. In this situation a federal court of equity is asked to decide an issue by making a tentative answer which may be displaced tomorrow by a state adjudication. GLENN v. FIELD PACKING CO., 290 U. S. 177; LEE v. BICKELL, 292 U. S. 415. The reign of law is hardly promoted if an unnecessary ruling of a federal court is thus supplanted by a controlling decision of a state court. The resources of equity are equal to an adjustment that will avoid the waste of a tentative decision as well as the friction of a premature constitutional adjudication.

An appeal to the chancellor, as we had occasion to recall only the other day, is an appeal to the "exercise of the sound discretion, which guides the determination of courts of equity". BEAL v. MISSOURI PACIFIC R. R., No. 72, decided January 20, 1941. The history of equity jurisdiction is the history of regard for public consequences in employing the extraordinary remedy of the injunction. There have been as many and as variegated applications of this supple principle as the situations that have brought it into play. See, for modern instances, BEASLEY v. TEXAS & PACIFIC RY., 191 U. S. 492; HARRISONVILLE v. DICKEY CLAY CO., 289 U. S. 334; UNITED STATES v. DERN, 289 U. S. 352. Few public interests have a higher claim upon the discretion of a federal chancellor than the avoidance of needless friction with state policies, whether the policy relates to the enforcement of the criminal law, FENNER v. BOYKIN, 271 U. S. 240; SPIELMAN MOTOR CO. v. DODGE, 295 U. S. 89; or the administration of a specialized scheme for liquidating embarrassed business enterprises, PENNSYLVANIA v. WILLIAMS, 294 U. S. 176; or the final authority of a state court to interpret doubtful regulatory laws of the state, GILCHRIST v. INTERBOROUGH CO., 279 U. S. 159; cf. HAWKS v. HAMILL, 288 U. S. 52, 61. These cases reflect a doctrine of abstention appropriate to our federal system whereby the federal courts, "exercising a wise discretion", restrain their authority because of "scrupulous regard for the rightful independence of the state governments" and for the smooth working of the federal judiciary. See CAVANAUGH v. LOONEY, 248 U. S. 453, 457; DI GIOVANNI v. CAMDEN INS. ASSN., 296 U. S. 64, 73. This use of equitable powers is a contribution of the courts in furthering the harmonious relation between state and federal authority without the need of rigorous congressional restriction of those powers. Compare 37 Stat. 1013; Judicial Code, Sec. 24 (1), as amended, 28 U. S. C. Sec. 41 (1); 47 Stat. 70, 29 U. S. C. Sec. 101-15.

Regard for these important considerations of policy in the administration of federal equity jurisdiction is decisive here. If there was no warrant in state law for the Commission's assumption of authority there is an end of the litigation; the constitutional issue does not arise. The law of Texas appears to furnish easy and ample means for determining the Commission's authority. Article 6453 of the Texas Civil Statutes gives a review of such an order in the state courts. Or, if there are difficulties in the way of this procedure of which we have not been apprised, the issue of state law may be settled by appropriate action on the part of the State to enforce obedience to the order. BEAL v. MISSOURI PACIFIC R. R., SUPRA; Article 6476, Texas Civil Statutes. In the absence of any showing that these obvious methods for securing a definitive ruling in the state courts cannot be pursued with full protection of the constitutional claim, the district court should exercise its wise discretion by staying its hands. Compare THOMPSON v. MAGNOLIA CO., 309 U. S. 478.

We therefore remand the cause to the district court, with directions to retain the bill pending a determination of proceedings, to be brought with reasonable promptness, in the state court in conformity with this opinion. Compare ATLAS INS. CO. v. SOUTHERN, INC., 306 U. S. 563, 573, and cases cited.

REVERSED AND REMANDED.

Mr. Justice Roberts took no part in the consideration or decision of this case.

CECIL A. MORGAN (A. B. CULBERTSON with him on the brief) for appellants, Cunningham et al.; CECIL C. ROTSCH, Assistant Attorney General of Texas (GERALD C. MANN, Attorney General of Texas, GLENN R. LEWIS, Assistant Attorney General, and LEE SHOPTAW, Assistant Attorney General, with him on the brief) for appellants, Railroad Commission of Texas et al.; IRELAND GRAVES (LOWELL M. GREENLAW, HERBERT S. ANDERSON, CHARLES L. BLACK, and CLAUDE POLLARD with him on the brief) for appellees.

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[1] Vernon's Anno. Texas Civil Statutes, Article 6445:

"Power and authority are hereby conferred upon the Railroad Commission of Texas over all railroads, and suburban, belt and terminal railroads, and over all public wharves, docks, piers, elevators, warehouses, sheds, tracks and other property used in connection therewith in this State, and over all persons, associations and corporations, private or municipal, owning or operating such railroad, wharf, dock, pier, elevator, warehouse, shed, track or other property to fix, and it is hereby made the duty of the said Commission to adopt all necessary rates, charges and regulations, to govern and regulate such railroads, persons, associations and corporations, and to correct abuses and prevent unjust discrimination in the rates, charges and tolls of such railroads, persons, associations and corporations, and to fix division of rates, charges and regulations between railroads and other utilities and common carriers where a division is proper and correct, and to prevent any and all other abuses in the conduct of their business and to do and perform such other duties and details in connection therewith as may be provided by law."

Brotherhood of Locomotive
Firemen and Enginemen
Cleveland, Ohio

D. B. ROBERTSON
PRESIDENT

April 2, 1948.

Mr. A. Philip Randolph, Chairman,
Brotherhood of Sleeping Car Porters,
Suite 301 - 217 West 125th St.,
New York 27, N. Y.

Dear Sir:

Your letter of February 26th was not accompanied by the enclosure referred to therein.

The fact that the Grand Lodge of the Brotherhood has received communications from three different sources, all assuming to speak on behalf of Negro firemen in the southeastern region, should demonstrate the unfeasibility of our conducting conferences with any one of these organizations, as alleged representative of the total of Negro firemen, because of our manifest inability to determine satisfactorily which of the organizations purporting to represent colored firemen is acting with authority.

As you may know, litigation having as its main objective the procurement of an injunction against our conducting further negotiations with the carriers respecting the subject matter of notice of January 26, 1948, has been instituted at Louisville and at Washington, D. C., by one such organization offering itself as the spokesman for Negro firemen. It is my understanding that the complaints in those cases filed by Houston, Houston, Hastie & Waddy, as attorneys, contain averments that they are brought by the named plaintiffs on behalf of the entire class of Negro firemen on the railroads involved. If these allegations be true, patently your organization cannot undertake to represent those firemen who comprise a substantial segment of the Negro firemen in the territory. And onthe other hand, it would seem plain that the organization sponsoring the suits may not speak with authority for such Negro firemen as may belong to your, or other, groups.

Although we regard conferences to be impractical under such conditions, that is not to say that the suggestions offered in your letter, or such as may be received from others, will not be given due consideration by the Brotherhood as collective bargaining representative. Moreover, we stand ready to consider any written elaboration of your ideas which you may wish to present.

Very truly yours,

D B Robertson

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

OF THE

DEPARTMENT OF LABOR

Docket No.

In the Matter Of:

BROTHERHOOD OF SLEEPING CAR PORTERS,
Claimant.

Place Washington, D. C.

Date May 13, 1948.

Pages 1 to 59.

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UNITED STATES OF AMERICA

DEPARTMENT OF LABOR

- :

In the Matter of: :

BROTHERHOOD OF SLEEPING CAR PORTERS, :

Claimant. :

- -

Room 3428
U. S. Dept. of Labor
Washington, D. C.
Thursday, May 13, 1948

Met, pursuant to notice of hearing at 10:00 a.m.

BEFORE:

CLIFFORD P. GRANT, Trial Examiner.

APPEARANCES:

CHARLES DONOHUE, Office of the Solicitor, Department of Labor.

HENRY EPSTEIN, 30 Broad St., New York City, appearing on behalf of the Brotherhood of Sleeping Car Porters.

C. M. MULHOLLAND, 740, Nicholas Bldg., Toledo, Ohio, appearing for organizations as listed in transcript.

W. A. ENDLE, 1370 Ontario Street, Cleveland 13, Ohio, appearing on behalf of the Brotherhood of Railroad Trainmen.

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PROCEEDINGS

TRIAL EXAMINER GRANT: Unless some of you know of others who intend to be present, I see no reason why we should not proceed.

In opening this hearing a brief introductory statement from me in regard to it should perhaps be made.

The purpose for which the hearing has been called is clearly and sufficiently stated in the original notice signed by the Secretary of Labor on March 2, 1948.

As each of you no doubt know, there is no express provision for requirement in the Railway Labor Act for a hearing before the Secretary of Labor as a prerequisite to a notification from him to the National Mediation Board that any given claim of a labor organization to participate in the selection and designation of the labor members of the National Railroad Adjustment Board under that Act has merit.

The Act provides for an investigation by the Secretary of Labor as the basis for such a notification.

In scheduling this hearing upon the claim of the Brotherhood of Sleeping Car Porters the Secretary has acted in the belief that it affords the best means of his becoming fully informed of the views of all concerned.

As to my function here, I have been designated to preside as Hearing Officer, as you have probably observed from the notice. In substance, it is my responsibility to see that the

Secretary has the benefit of all possible information that you may have to offer which may be pertinent to the merits of the claims of the Brotherhood of Sleeping Car Porters to participate in the selection of the labor members of the Railroad Adjustment Board. This, of course, carries with it the prerogatives of any hearing officer--to see that whatever testimony may be introduced is introduced in an orderly fashion.

Each party will have the right to call, examine, and cross examine witness and introduce documentary or other evidence into the record. The rules of evidence prevailing in the courts will not govern the introduction of such evidence.

Conceivably, however, I may be called upon to pass upon the relevancy of evidence. In this connection I might say now that the Brotherhood of Sleeping Car Porters will be asked to proceed first with such showing as it is prepared to make in support of its claim, after disposing of such preliminaries as may be necessary.

It should be understood that it will not be my function after the hearing to make any recommendation to the Secretary of Labor on the basis of the records. In other words, the record will be left entirely to the consideration and review of the Secretary for his independent decision.

I think it would appropriate at this point to have the reporter record, if he has not already so, the appearances in response to the Notice of Hearing.

This hearing is, of course, investigatory in nature and it will be the function of Mr. Donohue to assist in the development of a complete record.

MR. EPSTEIN: I am appearing on behalf of the Brotherhood of Sleeping Car Porters.

MR. ENDLE: Brotherhood of Railroad Trainmen.

MR. MULHOLLAND: I am appearing for the following organizations: D. B. Robertson, President, Brotherhood of Locomotive Firemen and Enginemen, 318 Keith Building, Cleveland 15, Ohio; H. W. Fraser, President, Order of Railway Conductors of America, O. of R. C. Building, Cedar Rapids, Iowa; Arthur J. Glover, President, Switchmen's Union of North America, 3 Linwood Avenue, Buffalo 2, N. Y.; G. E. Leighty, President, the Order of Railroad Telegraphers, 3860 Lindell Blvd., St. Louis 8, Missouri; O. H. Braese, President, American Train Dispatchers Assn., 10 East Huron Street, Chicago 11, Illinois; Fred N. Aten, President Railway Employes' Department, AFL, Rm. 1309, 608 S. Dearborn Street, Chicago 5, Illinois; H. W. Brown, President, International Association of Machinists, Machinists' Building, Washington 1, D. C.; Charles J. MacGowan, President, International Brotherhood of Boilermakers, 522 Brotherhood Bldg., Kansas City 11, Kansas; John Pelkofer, President, International Brotherhood of Blacksmiths, 2922 Washington Boulevard, Chicago 12, Illinois; Irvin Barney, President, Brotherhood Railway Carmen of America, 107 W. Linwood Boulevard, Kansas City 2, Missouri; L. M. Wicklein, Vice,President, Sheet Metal Workers

International Assn., 642 Transportation Building, Washington 6, D. C., J. J. Duffy, Vice President, International Brotherhood of Electrical Workers, 330 South Wells Street, Chicago 6, Illinois; George Wright, Vice President, International Brotherhood of Firemen & Oilers, 330 South Wells Street, Chicago 6, Illinois; George M. Harrison, President, Brotherhood of Railway Clerks, 1015 Vine Street, Cincinnati 2, Ohio; T. C. Carroll, President, Brotherhood of Maintenance of Way Employes, 61 Putnam Avenue, Detroit 2, Michigan; Jesse Clark, President, Brotherhood of Railroad Signalmen of America, 503 Wellington Avenue, Chicago 14, Illinois; Capt. E. W. Higginbotham, Preident, National Organization of Masters, Mates and Pilots of America, 15 Moore Street, New York 4, N. Y.;Samuel J. Hogan, President, National Marine Engineers' Beneficial Association, 132 Third Street., S. E., Washington 3, D. C.; Joseph Ryan, President, International Longshoremen's Association, 265 West 14th Street, New York 11, N. Y.; Hugo Ernst, General President, Hotel & Restaurant Employees' International Alliance and Bartenders International League of America, 528 Walnut Street, Cincinnati 2, Ohio; M. G. Schoch, President, Railroad Yardmasters of America, 537 South Dearborn Street, Chicago 5, Illinois.

MR. DONOHUE: I am from the Solicitor's Office of the Department of Labor.

MR. EPSTEIN: Do you want a short preliminary statement?

TRIAL EXAMINER GRANT: All right.

MR. EPSTEIN: Does the Solicitor's Office want to make a statement?

MR. DONOHUE: I have no statement. During the hearing I would like to put into the record the previous correspondence as well as the various notices.

MR. EPSTEIN: That would be very helpful because I had brought, in triplicate, some of the correspondence between Mr. Randolph and the Secretary on the one hand and the Secretary of the Railway Executives Organization, and I will offer those; but yours will supplement that.

MR. DONOHUE: It is a very small file and before it is put in anybody is certainly welcome to go over it and make any comments or objections in regard to it.

Do you want to look that over?

MR. EPSTEIN: I have most of the correspondence.

May I state on behalf of the International Brotherhodd of Sleeping Car Porters, whom I represent at this hearing, that it is our purpose to show in the record by the evidence to be presented that the International Brotherhood of Sleeping fully complies with the provisions of Section 153 (c) of the Railway Labor Act and in accordance with the necessary criteria by which a right to participate in the selection of representatives of labor on the Railway Adjustment Board may be considered, we intend to follow such criteria as have been laid down by the Secretary and which would indicate the national scope and character of the Brotherhood of Sleeping Car Porters.

We will also indicate by correspondence and testimony that it has thus far been impossible for a representative of the International Brotherhood, as a labor organization, to participate in the selection of the labor representatives. That is the sole purpose of the petition and the hearing on behalf of the International Brotherhood.

We recognize, within the scope of the statute, that the selection of the labor representatives under the Act resides in the executives of the labor organizations, and it is merely the purpose here to obtain the right of the executive member or representative of the International Brotherhood of Sleeping Car Porters, on behalf of those employees in the railway service, whom they represent as the International Brotherhood of Sleeping Car Porters, to participate in the selection of the labor representatives who sit upon the Railway Adjustment Board.

The testimony will be limited to that sole aim and purpose.

TRIAL EXAMINER GRANT: Do you have any preliminary statement to make, Mr. Mulholland?

MR. MULHOLLAND: I would like to make a statement with respect to our position in this proceeding.

It appears to us that the jurisdiction of the Secretary is predicated upon the existance of a dispute among the organizations authorized to participate in the selection of the members of Railway Adjustment Board and some other organization that may be seeking the right to participate. As far as we know, there is no dispute.

I represent some of the organizations who are authorized to participate in the selection. Mr. Endle represents one, I believe, and there are several others apparently not represented here.

The organization which I represent have never been furnished with any statement as to the position of the Brotherhood of Sleeping Car Porters, and the only communications that we know anything about were addressed to Mr. Lyon as Secretary of the Railway Executives Association, which has no authority to participate in the selection of representatives to the Adjustment Board.

As far as I know, the individual organizations, as such, and as organizations autherized to participate in the selection of members of the Adjustment Board have not been requested by Mr. Randolph, or any other representative of the Brotherhood of Sleeping Car Porters, to participate in such selection.

It seems to us that there is no basis for a statement that a dispute exists as far as the organizations that I represent are concerned. I cannot tell you what their position would be. At least they have never been asked as individual organizations to express their position. There has never been a meeting held since the request of Mr. Randolph, which was addressed to Mr. Lyon; and our position frankly is that we have received no information from any party, or from the Secretary as to the basis upon which he bases the statement in his original notice that it appears that a dispute exists.

That is all I have, Mr. Examiner.

TRIAL EXAMINER GRANT: Well, that is certainly points up, Mr. Mulholland, the issue insofar as your clients are concerned.

Mr. Endle, do you have any statement?

MR. ENDLE: I should like to concur in what Mr. Mulholland has said. We, also, have never received anything from Mr. Randolphy, or any representative of his organization, in the way of a request for the right to participate in the selection of representatives on the Board, and we have no knowledge of any basis for his claim. Therefore, we have never taken any action on such a claim. We question whether there is a dispute.

MR. EPSTEIN: It may/possible that if the Railway Labor Executives Organizations or the Railway Labor Organizations that are represented here by Mr. Mulholland and Mr. Endle would concede--I am not asking them to. I am saying that if they would concede that the International Brotherhood of Sleeping Car Porters is an organization, a labor organization, in the railway industry whose representative would have a right to sit in with the group that chooses the executives, we may have a quick, shortcut to this proceeding.

MR. MULHOLLAND: Obviously we cannot make any such concession. We do not know what their claim is.

Furthermore, the Brotherhood of Locomotive Engineers, the International Brotherhood of Teamsters, Chauffeurs and Warehousemen of America, the Seafarers' International Union of America, who are participating organization in the selection of members of the Adjustment Board, are not present. As far as I know, I have r eceived notice from Mr. Randolph, or anyone else, as to his desires.

TRIAL EXAMINER GRANT: I agree with Mr. Mulholland and it appears from the Notice of Hearing that the Secretary is apparently proceeding on the basis that there is a dispute.

MR. EPSTEIN: I think, Mr. Examiner, that the correspondence which will be offered through Mr. Randolph--after I have established the character of the organization that seeks representation through Mr. Webster will reveal that in the sense in which the Secretary, quite probably we believe, would interpret the word "dispute" under the Act that some such dispute does exist, purely out of the fact that there is no representation; that there is a claim for representation and that thus far theere has been an inability to obtain a method of such representation.

MR. MULHOLLAND: I believe that the names of the participants, the organizations, are available to the claimant here. Certainly if they are, they could have served notice upon those organizations and made a request upon those organizations that some sort of a meeting be called for the purpose of permitting the claimant to assert its position.

At least there should be, it seems to me, some action or some request for action upon the participating organizations before the Secretary could find that a dispute exists.

I will tell you frankly that if such a meeting was held at the request of the claimant, I do not know what the outcome would be.

TRIAL EXAMINER GRANT: Conceivably you may agree to its claim to participation?

MR. MULHOLLAND: That is right.

MR. EPSTEIN: That is very helpful at this instance, but I think it might be just as well to present the formal proof so that you may have it in the hearing. It may well be that the Secretary, as a sequel to the record and prior to any determination, will communicate with the executives of the various labor organizations who participate in the selection and present the question to them; and it may reach a resolution very readily.

TRIAL EXAMINER GRANT: I had something similar to that in mind. After this hearing has been concluded and the evidence has been presented by your organization, then were some time allowed both sides to present their views in a brief, it may well be that after consideration of the Record Mr. Mulholland and Mr. Endle may not care to dispute the claim any further and will so advise the Secretary.

MR. MULHOLLAND: I would like to note an objection to the going ahead purely on the ground that the Secretary has no jurisdiction over this proceeding at this time.

TRIAL EXAMINER GRANT: All right, Mr. Mulholland. If it appears that you need further opportunity to meet the evidence that is offered here, perhaps some adjustment or arrangement to that effect can be made.

MR. MULHOLLAND: I have no objection to Mr. Epstein introducing evidence as to what he considers constitutes the dispute. That is obviously proper; but to go into the merits, that is the objection that I have.

TRIAL EXAMINER GRANT: Well, the record certainly notes your objection.

MR. ENDLE: I would like to make the same objection.

TRIAL EXAMINER GRANT: All right, Mr. Endle, and we will proceed on the basis that I have indicated; and, of course, if any prejudice has been done to anyone, why then we will see if we cannot make the necessary adjustments.

MR. EPSTEIN: I would like to call Mr. Webster.

Whereupon,

MILTON P. WEBSTER

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Epstein:

Q Please give your name.

A Milton P. Webster.

Q Where do you reside?

A 6603 Langley Avenue, Chicago, Illinois.

Q Mr. Webster, was is your official position with the International Brotherhood of Sleeping Car Porters?

A International Vice President.

Q And are you familiar with the background and history in the operations of the Brotherhood?

A I am.

Q Just whom does your organization represent as a labor organization in the railway industry?

A I represents all pullman porters, maids, attendants, bus boys employed by the Pullman Company, and it represents the sleeping, parlor, buffet car porters employed by the Canadian Pacific Railway Company; and it represents train porters, chair attendants and coach porters employed by some 25 or 30 railway carriers in the United States.

Q Is the International Brotherhood of Sleeping Car Porters affiliated with any overall larger labor organization in this country?

A The Brotherhood is affilaited with the American Federation of Labor.

Q Has it a charter in, or rather from the American Federation of Labor?

A It has a charter from the American Federation of Labor.

Q Do you recall the approximate date of such a charter?

A Originally about 1929 we were given an international charter. Prior to that we had Federal charters for various local divisions around the country.

Q When was the Brotherhood of Sleeping Car Porters first organized?

A It originally was organized on the 25th of August, 1925.

Q Would you explain, or tell, the Examiner what is your aim in seeking representation in the choice of a labor representative for the Third Division of the National Railway Adjustment Board?

A Well, we have a substantial number of cases that are progressed to the Board. In fact, over a periof of 10 years we progressed approximately 300 cases to the Board, largely involving grievances and disciplinary matters.

We feel that if we had the opportunity to select or could select one of our own people to sit on this Board that we would be able to interpret to the other members of the Board, as well as to the referee, our position in connection with these cases to such better advantage than to an individual who has had no experience in the Pullman industry.

We feel that the handling of disciplinary cases with the

Pullman Company which composes the bulk of the cases that are progressed to the Board is different from the way in which it is handled by the railroad carriers that only an individual who has a concept of the philosophy and psychology of the Pullman people in handling these people can interpret to the best advantage to other members of the Board as wellas to the referee who handled these cases our position in these matters.

Q Would you give the Examiner some idea of the number of cases in the course of the 10 years you speak of that have been progressed to the Board for determination?

A We have had approximately 300 cases. To be exact, 297 cases have been progressed to the Third Division of the National Railroad Adjustment Board.

TRIAL EXAMINER GRANT: What has been the highest number in any one year?

THE WITNESS: In the year 1945 we progressed 59 cases to the Third Division.

By Mr. Epstein:

Q How many of the other years varied in numbers?

A Well, they varied all the way from 1 in 1937 which was our first year. We submitted one case then. In 1938, 13 cases; 1939, 25 cases; 1940, 14 cases; 1941, 29 cases; 1942, 32 cases; 1943, 31 cases; 1944, 30 cases; 1945, as previously stated, 59 cases; 1946, 27 cases; 1947, 27 cases; and in 1948 there are 7 cases so far.

Q Do you know of any other labor organization that has representation which brings cases within the scope of the Third Division of the Railway Adjustment Board that progresses as large a number of cases before that Board as the International Brotherhood of Sleeping Car Porters?

A I don't have the exact statistics, but our understanding in discussing with other members of the Board is that we progressed the second largest number. I understand the Railway Clerks have progressed the largest number; and I understand that we are second in number of bases.

Q What is the total membership of the International Brotherhood of Sleeping Car Porters whom you represent?

A 15,000 members.

MR. EPSTEIN: I suppose I may ask somewhat leading questions?

TRIAL EXAMINER GRANT: Surely.

By Mr. Epstein:

Q Is the country divided into zones or regions for purposes of administration of your organization?

A We have the country divided into five zones.

Q Would you please tell what those zones are?

A Well, we have the eastern zone with headquarters in New York City. That handles the business of the organization in the following cities: Albany, Asheville, Atlanta, Augusta, Baltimore, Birmingham, Boston, Buffalo, Charleston, S.C., Jacksonville, Florida; Jersey City, N.J.; Mobile, Montgomery, Alabama; New York, N. Y.; Norfolk, Virginia; Philadelphia, Pennsylvania; Richmond, Virginia; Tampa, Florida; and Washington, D. C.

Q Are all of those in eastern zones with headquarters at New York?

A That is right.

Q What is the next zone?

A The next zone is what we call the Detroit Midwest Zone with headquarters in Detroit, Michigan, which has jurisdiction over Chatanooga; Detroit, Michigan; Cincinnati, Ohio; Cleveland, Columbus, Ohio; Indianapolis, Indianna; Louisville, Kentucky; Nashville, Tennessee; Pittsburgh; all of Kansas, including--I mean Canada above which includes Calgory, Montreal, Toronto, Vancouver, Winnipeg, Moose Jaw, Saskatchewan.

MR. EPSTEIN: May I make it purely a point in passing to interpolate into the record that, of course, we make no pretense that the representation of the Canadian membership has anything to do with the matter before the Secretary or the Railway Adjustment Board.

By Mr. Epstein:

Q Next zone.

A Mid-west Chicago with headquarters in Chicago, which handles the business in Denver; Kansas City, Missouri, Oklahoma City, Oklahoma; Omaha, Nebraska; St. Paul; and Minneapolis.

Q Next one?

A Then we have what we call the St. Louis Southwestern Zone with headquarters in St. Louis and it handles the business in Dallas, El Paso, Forth Worth, and Huston, Texas; Little Rock, Arkansas; Memphis, Tennessee; New Orleans and Shreveport, Louisiana; and also San Antonio, Texas.

Q The last one?

A The Pacific Zone with headquarters in Oakland, California which handles Los Angeles and Oakland, California; San Francisco; Portland, Oregon; Salt Lake City, Utah; Seattle and Spokane, Washington.

Q How many local unions does the International comprise?

A We have 19 local unions.

Q And how were these located geographically, if you can tell?

A They are located in pretty near every state in the Union, with a possible exception of Maine, New Hampshire, Vermont, Connecticut, the Dakotas, Montana. They are located in practically every railroad center where the Pullman Company has a district and with train porter locals located in the various sections where there are train porters.

Q In dealing with the Railway Association as distinguished from the Pullman Company have you entered into a contract with railroads on behalf of your membership?

A We have agreements with some 25 or 30 railroad carriers, exclusive of the Pullman Company.

Q Would you enumerate those for the record?

A Chicago-Alton, two contracts. One for chair car porters and one for parlor car porters.

The Gulf, Mobile and Ohio sleeping car porters, train porters, chair car porters.

Atlantic Coast Line chair car attendants.

Baltimore and Ohio train porters; Burlington Lines chair car porters; Canadian Pacific Railroad sleeping car, parlor and buffet car porters; Central of Georgia train porters; Chesapeake and Ohio train porters; Chicagom Milwaukee, St. Paul and Pacific sleeping car, parlor car, coach porters; Chicago and Easter train porters; Chicago Northwestern chair car and parlor car porters; Delaware, Lackawanna and Western chair car attendants; Denver and Rio Grande chair car porters; Forth Worth and Denver Railroad chair car porters; Illinois Central train porters, parlor car porters; the Lehigh Valley chair car attendants; Missouri, Kansas, Texas train porters; Missouri Pacific train porters; the Northern Alberta Railways of Canada sleeping car porters; Seaboard Air Line chair car attendants; Minneapolis, St. Paul and Sault St. Marie sleeping car porters, buffet car porters; St. Louis Southwestern train porters; Southern Pacific chair car porters; Texas and New Orleans

Railroad chair car porters; Texas and Pacific train porters; Union Pacific chair car porters and chair car attendants; Western Pacific chair car porters and chair car attendants; and there is pending now negotiations for an agreement with the Atchison, Topeka and Santa Fee chair car porters and chair car attendants.

The agreement has not been consummated yet.

Q How are the locals or the separate organizations of the International created or organized?

A Well, they are solicited for membership, or they solicit us for membership and as a rule we get authorization cards and then apply for representation; and in most cases the matters are referred to the National Mediation Board and an election is held. Then we get the certification and set up our local division on the carrier.

Q Internally weren't the organization representatives chosen by elections of all the memberships?

A Yes, the members select their officers and they select delegates to the international convention and participate therein.

Q And the offices of the International are chosen by the International convention?

A Yes, every two years.

Q And the crafts that have been represented are those that you enumerate in the first instance?

A Yes, sir.

Q These railway agreements that you have referred to, which are in addition to your contract with the Pullman Company, in how many states would you say these railways operate?

A I would say they operate in practically every state in the United States. I don't know any state in which one of these railroads do not operate with the possible exception of Maine, New Hampshire, and Connecticut. I don't know of any up that way.

Q Do you know whether Mr. Randolph, the International President, has sought to obtain a right to participate in the selection of labor representatives for the Railway Adjustment Board?

A I think we have made a number of efforts. As I recall, the first effort we made was when the Railway Labor Act was amended in 1934, and the railway groups that were participating in this setting up--the National Adjustment Board had a meeting in Chicago and I was directed by Mr. Randolph to make contact with them to see what could be done for us to participate.

George Harrison, as I recall, was the leading figure in the set up, and I made contact with him; but for some reason I wasn't able to see him. I talked with Bert Jewel and pointed out to him that it looked like we were out in the cold in this proposition.

At that time, as I recall, we had not been certificated. I think his explanation was that they didn't feel that they ought to let any organization into it that had not be certified because it would leave them to have to recognize a good many organizations which they referred to, at that time, as company unions.

Of course, we were not any more concerned by company union representation than they were, and we accepted that explanation at that time.

Sometime later I think Mr. Randolph made application to become a part of the Railway Labor Executives Association, which association, we thought, was the instrumentality through which this thing could best be operated. As I recall, that application was turned down.

I think recently Mr. Randolph has had some contact with the Executives Association. In fact, we felt that the Railway Labor Executives Association was the instrumentality through which this matter could be worked out.

As I recall, we have not been very successful in being considered as a member of the Railway Labor Executives Association.

MR. EPSTEIN: I think that is all I have to present through Mr. Webster. Is there any cross examination by the Solicitor.

TRIAL EXAMINER GRANT: You are free to ask any questions that you like.

CROSS EXAMINATION

By Mr. Mulholland:

Q Mr. Webster, are you familiar with the fact that at least four of the participating organization who select the members of the Adjustment Board are not members of the Railway?

A No, I am not. It was my opinion they were.

Q Is it true that when you served these requests that you were under the impression that a request on the Railway Executives Association would constitute notice to the participating organizations?

A We felt that the Railway Labor Executives Association were the controlling influence in this set up. That is one of the reasons why we made the application through that source.

Q As far as you know, no request was made upon the individual participating organizations?

A I couldn't say definitely. I think Mr. Randolph could answer that because he handles it.

Q You testified, I belive, as to the payroll classification of the employees you represent. Isn't it a fact that you now attempt to represent employees outside of those payroll classifications?

A Yes.

Q Are you trying to represent what are commonly referred to as shop craft employees?

A I don't know what you mean by shop craft employees. We are trying to represent the Pullman car cleaners in the yards, if that is what you have reference to.

Q That includes the craft class employees, doesn't it; includes the car cleaners?

A It includes the car cleaners, Upholsterers, upholsterer helpers, painters, painters' helpers, and possibly one or two other classifications of people who work in the Pullman yards.

Q It would not include the so-called mechanics in the carmen's craft or class?

A There are some, yes.

Q If you should be successful in that representation, would you still confine your request to representation to the Third Division?

A Well, I think that is a hypothetical question that I don't think I can answer at this time.

The question of whether we are successful or not is a long story. If we had one election, we will no doubt have another one. We don't know the outcome. I couldn't answer the question at this time as to what we might do. If we were successful, we would attempt to bring the influence that we could to bear to properly represent these people so far as the law is concerned.

Q But you are not prepared at this time to state whether you want to participate in the selection of the members of the Second Division?

A No, not at this time.

MR. EPSTEIN: I thought I had made it clear that this was solely directed to the Third Division.

MR. MULHOLLAND: That is the present request, but once you become a participating organization then the question is bound to arise with respect to the different crafts that you represent and the different divisions. That is why I asked the question.

That is all I have.

TRIAL EXAMINER GRANT: May I ask you one or two questions just to clarify my mind on one or two things, Mr. Webster.

These agreements that you have with the railway carriers, other than the Pullman Company, are they negotiated and consummated by the locals or by the international?

THE WITNESS: The International negotiates all agreements.

TRIAL EXAMINER GRANT: You gave your organization as the second largest in number of cases progressed before the Third Division?

THE WITNESS: I think I stipulated that I had no specific statistics on it, but in the discussion with the boys on the Board they claim we present the second largest number of cases.

TRIAL EXAMINER GRANT: I suppose that could be easily determined from the annual reports of the Mediation Board?

THE WITNESS: No doubt it could.

TRIAL EXAMINER GRANT: When you say the second largest number of cases, you are including, are you not, the participating organizations as well as the non-participating ones?

THE WITNESS: Third Division, yes.

TRIAL EXAMINER GRANT: Do you have any questions, Mr. Donohue?

MR. DONOHUE: No questions.

REDIRECT EXAMINATION

By Mr. Epstein:

Q I should like to ask Mr. Webster whether or not he knows the Brotherhood of Railroad Trainmen is a member of the Railway Labor Executives Association?

A I found that out recently. I didn't know it at the time.

Q Didn't you know that a request was served on the Brotherhood of Railroad Trainmen for the right of Sleeping Car Porters to participate?

A I couldn't say. That is handled by Mr. Randolph's office.

MR. EPSTEIN: That is all.

TRIAL EXAMINER GRANT: Let me ask this question, Mr. Mulholland. Have the participating organizations that you represent ever expressed to the Brotherhood of Sleeping Car

Porters its disposition toward the Sleeping Car Porters participation in the selection of the labor members?

MR. MULHOLLAND: Not to my knowledge.

MR. ENDLE: Not to my knowledge with respect to the Trainmen either.

MR. MULHOLLAND: We have never been requested to express it. That is our position.

TRIAL EXAMINER GRANT: I assume that that question has been answered by what had already been said, but I want to be clear about it.

MR. EPSTEIN: I would like to call Mr. Randolph.

Whereupon,

A. PHILLIP RANDOLPH

having been duly sworn, was examined, and testified as follows:

DIRECT EXAMINATION

By Mr. Epstein:

Q Please give your full name and address.

A The name is A. Phillip Randolph. The address is 2588 7th Avenue, New York City.

Q You are the International President of the Brotherhood of Sleeping Car Porters?

A I am.

Q Would you kindly explain for the benefit of the record, Mr. Randolph, what efforts, if any, you made to obtain representation as a representative of the Railway Labor Organization in the group that selects the members of the Railway

Adjustment Board, who, under the statute, would represent the labor organizations?

A Well, I directed letters to the Association of Railway Labor Executives. The first letter was answered, but the application for membership was turned down. I directed another letter to the Association.

TRIAL EXAMINER GRANT: Pardon me. When you say it was turned down, you have a copy of the letter I assume?

MR. EPSTEIN: I will provide it.

TRIAL EXAMINER GRANT: Because I was going to ask what he meant by that.

MR. EPSTEIN: Subject to any verification as to the authenticity of the letters that have been sent or received, I will present merely copies for identification and then into the record.

By Mr. Epstein:

Q I show you a copy of a letter dated March 10, 1947 purporting to have been addressed to Mr. George M. Harrison, Grand President, Brotherhood of Railway and Steamship Clerks. I ask you whether you sent that letter?

A Yes.

MR. EPSTEIN: May I offer that, subject, of course, to question if there are to be any?

TRIAL EXAMINER GRANT: We will receive this as Claimant's

Exhibit No. 1 in evidence.

(Claimant's Exh. No. 1 was received in evidence.)

By Mr. Epstein:

Q I show you what purports to be a copy of a letter dated March 13, 1947 addressed to you and signed by G. M. Harrison, Grand President on the letterhead of the Brotherhood of Railway and Steamship Clerks, and ask you whether you received the original?

A Yes.

MR. EPSTEIN: I offer that.

TRIAL EXAMINER GRANT: It will be received and made a part of the record as Claimant's Exhibit No. 2.

(Claimant's Exh. No. 2 was received in evidence.)

By Mr. Epstein:

Q Following the receipt of the letter from Mr. Harrison, Mr. Randolph, I ask you had you addressed this communication purported to be dated April 30, 1947 to Mr. A. E. Lyon, Executive Secretary, 10 Independence Avenue, Washington, D. C.?

A Yes.

MR. EPSTEIN: I offer this in evidence.

TRIAL EXAMINER GRANT: We shall receive it as Claimant's Exhibit No. 3.

(Claimant's Exh. No. 3 was received in evidence.)

By Mr. Epstein:

Q Following that letter of April 30, Mr. Randolph, did you receive this communication, or a communication of which this purports to be a copy of, dated May 2, 1947 from the Executive Secretary of the Railway Labor Executives' Association, Mr. Lyon?

A Yes.

MR. EPSTEIN: I offer it.

TRIAL EXAMINER GRANT: It will be made a part of the record as Claimant's Exhibit No. 4.

(Claimant's Exh. No. 4 was received in evidence.)

By Mr. Epstein:

Q Following upon the receipt of that letter of May 2 did you address the communication, copy of which I now show you, dated May 13, 1947 to Mr. Lyon?

A Yes.

MR. EPSTEIN: I offer this also.

TRIAL EXAMINER GRANT: Received as Claimant's Exhibit No. 5.

(Claimant's Exh. No. 5 was received in evidence.

By Mr. Epstein:

Q Did you also address a letter to Mr. Lyon under date of July 9, 1947, copy of which I show you and purports to be such?

A Yes.

MR. EPSTEIN: I offer it.

TRIAL EXAMINER GRANT: Mr. Randolph's letter of July 9, 1947 to Mr. Lyon will be received in evidence as Claimant's Exhibit No. 6.

(Claimant's Exh. No. 6 was received in evidence.)

By Mr. Epstein:

Q I now show you what purports to be a letter under date of July 10, 1947, Mr. Randolph, and ask you whether you addressed the original of that to Mr. George Harrison of the Brotherhood of Railway Clerks?

A Yes.

MR. EPSTEIN: I offer it.

TRIAL EXAMINER GRANT: Mr. Randolph's letter of July 10, 1947 is received as Claimant's Exhibit No. 7.

(Claimant's Exh. No.7 was received in evidence.)

By Mr. Epstein:

Q Do you recall ever receiving any further response to the letter of July 10 that has just been admitted as Claimant's Exhibit No. 7 from Mr. Harrison?

A I do not.

Q I show you a letter under date of January 19, 1948 purporting to be a copy of an original of such letter addressed to the Honorable Lewis B. Schwellenbach, Secretary of Labor, and ask you whether you addressed the original of that to him?

A Yes.

MR. EPSTEIN: I will want to offer it now.

TRIAL EXAMINER GRANT: This last mentioned letter will be received as Claimant's Exhibit No. 8.

(Claimant's Exh. No. 8 was received in evidence.)

By Mr. Epstein:

Q In the course of this correspondence andprior to or subsequent to your communication to the Secretary of Labor have you received any response with regard to Mr. Lyon's advising you that he would call the matter to the attention of the executive officers of the twenty odd members of their Association?

A No, I have not.

Q I show you a letter addressed to you by the Secretary of Labor under date of January 23, 1948 and ask you whether you received the original of that?

A Yes, I have.

MR. EPSTEIN: I will offer it.

TRIAL EXAMINER GRANT: The Secretary's reply to Mr. Randolph of January 23, 1948 will be received as Claimant's Exhibit No. 9.

(Claimant's Exh. No. 9 was received in evidence.)

By Mr. Epstein:

Q I show you another letter under date of February 9, 1948 which copy purports to be from the original. Did you write it?

A Yes.

MR. EPSTEIN: I will offer it.

TRIAL EXAMINER GRANT: This second letter of Mr. Randolph to the Secretary of Labor will be received as Claimant's Exhibit No. 10.

(Claimant's Exh. No. 10 was received in evidence.)

By Mr. Epstein:

Q Have you made any other efforts or contacts over the years with respect to the right to participate in the selection of labor representatives on the Railway Adjustment Board of Division Three, and if so, with whom?

A Well, I think those letters that have been submitted cover the efforts that have been made to secure the right to select representatives to sit on the National Railway Adjustment Board.

Q Was it your understand that the selection of these members was made in effect and substance by the labor representatives who were members of this Association?

A It was my understanding that the Association of Railway Labor Executives had the right to select members to sit on the Railway Adjustment Board. That is the reason why I addressed the letters to them.

Q As President of the International Labor Organization representing some 15,000 employees progressing grievances to the Railway Adjustment Board have you ever been invited to participate in the selection of labor members?

A No, I have not.

Q Or has your organization, to your knowledge, ever been invited to participate?

A No, it has not.

Q It is a fact, I assume, Mr. Randolph, that the existance of your organization and its agreements not only with the Pullman Company, but with the railroads is a fact that is known to most of the executives or the officers of railway labor organizations?

A I think so.

Q As a result of your efforts through your correspondence and contacts within the past year has any offer or indication of a consent, or a wish that you participate, or your organization have a representative participate in the selection of labor representatives for the Railway Adjustment Board ever been made?

A No, no such offer has been made.

MR. EPSTEIN: That is all, Mr. Examiner.

TRIAL EXAMINER GRANT: Mr. Mulholland?

MR. MULHOLLAND: No questions.

TRIAL EXAMINER GRANT: Mr. Endle, any questions?

MR. ENDLE: No, sir.

MR. DONOHUE: I have a question. I notice that you addressed a letter to Mr. George Harrison on March 10, 1947 in which you requested information as to the procedure to become a member of the Third Division to be represented on the Third Division. I was just curious as to the capacity in which you addressed him. That is, what was the reason why you should pick George Harrison?

THE WITNESS: I knew George Harrison and I alsoknew he was an active and prominent member of the Association of Railway Executives; and Mr. Robert F. Cole told our Research Director, Theodore Brown, that we should communicate with the Association of Railway Labor Executives in reference to securing participation in the selection of a member to the National Railroad Adjustment Board.

MR. DONOHUE: When you wrote to Mr. Harrison on July 10 informing him of your activities in the interim. That is, of your correspondence and communications with Mr. Lyon, did you receive any reply?

THE WITNESS: Yes, I think we did. A letter was submitted here which we received from Mr.Harrison.

MR. DONOHUE: Is that one of the exhibits here?

MR. EPSTEIN: Yes, the letters in which Mr. Harrison refers him to Mr. Lyon.

MR. MULHOLLAND: That is another letter.

THE WITNESS: That is the only letter that we received from him. We have received no letters from him save the ones submitted here.

TRIAL EXAMINER GRANT: You indicated, Mr. Donohue, you might have some correspondence to offer. Do you have anything in addition to what Mr. Epstein has offered?

MR. DONOHUE: I think that it probably would be a good idea to put into the record the series of communications between the Brotherhood of Sleeping Car Porters and the Secretary of Labor, or his representatives, with respect to this matter; and I offer them for the record to be marked seriatim or which way you designate that they should be marked for purposes of identification.

MR. MULHOLLAND: These are in addition to the ones that have been introduced?

MR. DONOHUE: I believe that the only letter which has been introduced already is the one to the Secretary of Labor and two in reply, which is contained in here. The letter of February 6, 1947 fromMr. Randolph to the Secretary of Labor and a reply dated February 21, 1947 from the Secretary to Mr. Randolph.

MR. MULHOLLAND: May we see those, please.

MR. DONOHUE: Yes.

MR. MULHOLLAND: We have no objection to the introduction of the letters, but I think we should be furnished copies so our record will be complete with the transcript.

MR. DONOHUE: We can furnish copies without any trouble at all.

MR. MULHOLLAND: That will be fine.

MR. EPSTEIN: I would appreciate it if you would let me have copies also. I have no objection to them.

MR. DONOHUE: I do not believe that the record contains the notice of hearing and the notice of the order postponing the hearing and resetting it for a different date. Am I correct?

TRIAL EXAMINER GRANT: That is true.

MR. DONOHUE: I would think that those matters, too, would be appropriate to place into the record at this point.

First, there the Notice of Hearing in the matter originally issued by the Secretary, of which I think you probably have copies.

Second, I would like to place in the record a telegram from Mr. Randolph to the Secretary of Labor, asking for a 30-day postponement in the hearing to which, I assume, there is no objection.

Third, There is the order postponing the hearing.

The only other material is a letter of April 3, 1948 from Mr. Randolph to the Secretary acknowledging the receipt of the postponement of the hearing.

Next is a letter of April 5, 1948 addressed to the Secretary by Mr. Glover, the International President of the Switchmen's Union of North America, in which it acknowledges receipt of the notice of the postponement of the hearing.

MR. EPSTEIN: Are they one of the organizations whom you represent?

MR. MULHOLLAND: Yes.

MR. DONOHUE: Here is a letter and its reply. The letter is dated May 6, 1948 addressed to the Secretary by Mr. Endle, General Counsel for the Brotherhood of Railroad Trainmen, in which is acknowledged the receipt of notice of postponed hearing.

Attached to it is a copy of a reply acknowledging the letter of Mr. Endle.

Finally, I would like to introduce the list of the names of persons to whom notice was sent, both the original notice of hearing as scheduled, I believe, April 14, and the notice of the postponed hearing scheduled for today, May 13.

MR. EPSTEIN: I would appreciate a copy of that last one.

MR. MULHOLLAND: I would like a copy, too.

TRIAL EXAMINER GRANT: Yes, we have copies of that here now.

The first three documents offered by Mr. Donohue, consisting of the letter written by Mr. Randolph to the Secretary of Labor on February 6, 1947; the Secretary's reply of February 21, 1947; and Mr. Randolph's acknowledgment of May 8, 1947 are received as part of the record to be marked Department of Labor Exhibits Nos. 1, 2, and 3.

(Labor's Exhs. Nos. 1, 2, 3 were received in evidence.)

TRIAL EXAMINER GRANT: I might say that Mr. Donohue has promised to furnish copies of that correspondence to those appearing here.

The next four documents consist of the original Notice of Hearing issued by the Secretary on March 2, 1948; Mr. Randolph's telegraphic request for a continuance; the Secretary's order of continuance; and Mr. Randolph's acknowledgment of the order granting the continuance to be marked Department of Labor Exhibit Nos. 5, 6, 7 and received in evidence.

(Labor's Exhs. Nos. 5, 6, 7 were received in evidence.)

TRIAL EXAMINER GRANT: Mr. Glover's letter of April 5, 1948 to the Secretary, Mr. Endle's letter of May 6 to the Secretary, and My reply to Mr. Endle are received as Department of Labor Exhibits Nos. 8, 9, and 10, and the list of names to whom the original Notice of Hearing and the korder postponing the hearing was sent will be received as Department of Labor Exhibit No. 11.

(Labor's Exhs. Nos. 8, 9, 10, 11 were received in evidence.)

TRIAL EXAMINER GRANT: That concludes the correspondence, Mr. Donohue?

MR. DONOHUE: Yes.

MR. EPSTEIN: May I ask that the record note, if the Examiner pleases, from this list supplied as Department of Labor's Exhibit No. 11, those who are not here represented, if I could go through the names of the organizations--those which Mr. Mulholland represents, and could merely mark them off. In that way we could have who has received the notice and not represented.

TRIAL EXAMINER GRANT: The Railway Labor Executives' Association as such is not represented here?

MR. MULHOLLAND: Correct, nor is A. Johnston, Grand Chief Engineer, Brotherhood of Locomotive Engineers.

On the next page Harry Lunderberg, President, Seafarers' International Union of North America; D. J. Tobin, President, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America.

I believe that is all.

MR. EPSTEIN: All except the Railway Executives Association as such, Brotherhood of Locomotive Engineers, the International Seafarers' International Union of North America, and the International Brotherhood of Teamsters, etc., are represented here.

MR. MULHOLLAND: That is correct.

MR. EPSTEIN: Mr. Brown, will you be sworn, please.

Whereupon,

THEODORE E. BROWN

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Epstein:

Q Will you give the stenographer your full name and address?

A My name is Theodore E. Brown. My address is 480 Convent Avenue, New York City.

Q What position do you hold with the Brotherhood of Sleeping Car Porters?

A I hold two positions. I am managing editor of the Black Worker. That is an official organ of the Brotherhood, and I am also Director of Research for the same organization.

Q In your official capacity as Director of Research do you, under instructions from Mr. Randolph, make any contacts with the Railway Mediation Board in an endeavor to ascertain how representation of the International Brotherhood of Sleeping Car Porters would be obtained among those who select the labor representatives for the Railway Adjustment Board?

A Yes, I do.

Q Whom did you see?

A I would like to review it.

On or about the early part of the summer of 1947 Mr. Randolph requested that I ascertain how we could best go about securing membership on the Third Division of the National Railway Adjustment Board.

From our International office in New York City I made a long distance call to the Department of Labor attempting to get information as to the best procedure. A person representing the Department of Labor stated that they did not have the necessary information but suggested that I speak to someone of the National Mediation Board. I asked them if they cared to name a specific individual at the National Mediation Board's offices who would have the desired information. They suggested that I speak to Mr. Robert Cole, whom I think is the Secretary of the Board.

I put through a long distance person to person call to Mr. Cole and spoke to Mr. Cole. Mr. Cole stated at that time the National Mediation Board did not have the responsibility of naming the members to the Board; however, he stated that that information was available from the Railway Executives' Association.

I asked him if he would care to name a specific individual that that Association had, and he stated that Mr. Lyon, in his official capacity as Executive Secretary for the Association, had all the information that I was requesting.

I further asked Mr. Cole could he furnish the method and procedures that an organization would go about securing membership on the Board for I thought the Act was sort of ambiguous as to how to proceed. He stated that he did not quite understand how they did it.

He said all the questions I was asking could readily be secured from Mr. Lyon.

Then I put through a person to person call to Mr. Lyon, spoke to him; and Mr. Lyon stated that members of the Association agreed as to the procedures of securing them, although he did not state how that the Association as such named the particular individuals.

I think that was the substances of my communications.

MR. EPSTEIN: That is all.

CROSS EXAMINATION

By Mr. Mulholland:

Q I would like to clarify a bit, if I may, what you meant by the statement that the members of the Association agreed as to the procedures. Is that what you said?

A No, I wouldn't put it exactly that way.

MR. EPSTEIN: You are speaking of your conference with Mr. Lyon.

THE WITNESS: Yes. He stated that the Association as such did not name the members, but that the members of the Association determined who would sit on the Board. In other words, he was saying that the Labor Executives' Association does not name the members to the Board of the Third Division. However, the ones who will participate, or were participants, on the Third Division, agreed among themselves, more or less, as to how their membership would be composed.

By Mr. Mulholland:

Q He didn't convey to you, did he, that the organizations affiliated with the Railway Labor Executives' Association acting individually to the exclusion of all other, or other organizations made these selections, did he?

A Well, here is the way it developed. As I stated, I noticed that the members of the Association had, sometimes, members on the Board and that the birth of the Association seemed to correspond with the provision in the Railway Labor Act which established the Board.

Q Are you telling the conference you had with Mr. Lyon?

A I am leading into how he did not want to take the position, as I gathered, that the Association as such named the particular members of the Board; but he would only go so far as to say that, for instance, maybe the clerks or one or two organizations which are members, would sit down and determine. Of course, the Act provides for that, but he never did say that the Association as such, in an official meeting, would sit down and determine who would compose the Board.

Q You didn't gather from your conversation with him, for example, that the Brotherhood of Locomotive Engineers had nothing to do about them not being members of the Association?

A I made it clear that I was only concerned with the information regarding the Third Division, and, of course, obviously the Engineers are not a member of the Third Division so that did not come into it.

Q You were merely talking about the Third Division?

A That is right.

Q You are asking him what organizations participated in the selection of the members of the Third Division?

A That is right.

Q And not what organizations had the right to designate who might participate in the selection on the Board as a whole?

A My question was simply that the Brotherhood of Sleeping Car Porters was interested in naming a representative to the Third Division of the National Railway Adjustment Board.

It was our understanding from the Act that that Board, kthe Third Division was to be composed of representatives from unions representing particular crafts of employes designated by the Act for bring their case before the Third Divison, that the First, Second or Fourth Divisions were not a question of immediate discussion. Therefore, organizations such as the Trainmen or the Engineers or the Firemen were not discussed.

Q As I gather your testimony it is that you are making inquiry as to how members of the Third Division were selected rathr than as to how members were selected to become a part of the participating organizations as a whole, is that correct?

A When you say "participating organization as a whole," you mean the entire four boards?

Q The whole Adjustment Board, yes.

A No, I meant it specifically on the Third Division.

MR. MULHOLLAND: That is all.

By Mr. Donohue:

Q Did Mr. Lyon state at any point that the Railway Executives' Association determined who would be a representative on the Third Division?

A Well, he never answered it affirmatively or negatively.

Q Did you ask him?

A I asked him. I stated that I told him that I talked to Mr. Cole prior to calling him and Mr. Cole suggested that I communicate with him. I stated that the information that I had been gathering seem to indicate that the Railway Labor Executives' Association was the determining body for naming members of the Board; and if I recall, Mr. Lyon attempted to bring into it the rest of the Board. I told him a number of reasons why we were not interested in the First, Second and Fourth.

First, that in reviewing the whole set up of the Board there was no question of the First Division because the number of organizations that participated in the First Division were five and there were five places, but we were specifically concerned with the Third Division. He stated that the members of the Board on the Third Division did determine who the representative would be, but he never did state either affirmatively or negatively that his Association would so I stated to him that it was my information that the Association determined what unions would have representatives on the Third Division.

He said, "I wouldn't care to answer that question." He said,"I will state that the unions acting together in compliance with the Act to determine the membership," but he did not mention acting together in the name of the Association.

MR. DONOHUE: That is all I have.

REDIRECT EXAMINATION

By Mr. Epstein:

Q Have you ever been able to ascertain, either from the Mediation Board or Mr. Lyon, or anyone else, how the selection is made of the representatives of the Railway Labor organizations who do select the members of the Railway Adjustment Board, or make the assignments?

A As I get the question you would like information if I ever did find out just what methods were used?

Q Yes.

A Frankly, I never did get the direct information.

MR. EPSTEIN: That is all. That is the claimant's presentation. I have a short memorandum which just summarizes the law and the pertinent criteria which the Secretary has designated as the substances of the matter.

TRIAL EXAMINER GRANT: I had a question somewhat related to the examinationthat has been going on just before, Mr. Epstein.

Is it the contention of the organization that you represent that they were never notified by Mr. Lyon, or of the claim of the Brotherhood of Sleeping Car Porters?

MR. MULHOLLAND: No. The organizations affiliated with the Railway Labor Executives' Association were furnished with a copy of the letter/and of Mr. Randolph's reply, I believe.

I am referring now to the letters of April 30, 1947 and May 2, 1947 which are Claimant's Exhibits Nos. 3 and 4.

TRIAL EXAMINER GRANT: I already have your answer to the effect that the individual organizations that formed this Association did not act upon the application of the Sleeping Car Porters, but at the same time it is a little difficult for me to distinguish between Mr. Lyon receiving a letter in the capacity of a secretary of an association and in the capacity of a representative of the various organizations that made up that association.

MR. MULHOLLAND: He has no right to accept anything for the individual organizations.

TRIAL EXAMINER GRANT: I want to get your position fully, Mr. Mulholland.

MR. MULHOLLAND: He has no right to commit individual organizations as such and so commit the Association. As a matter of fact, until the Association as such gives him authority to act and in this particular instance this letter was addressed to him erroneously as President , or rather Secretary of the Association. He passed it on to the members of the Association as a matter of information. That is all he had any right to do. Of course, anything that he did do--he did not send it to anybody who was not a member of the Association.

Of course, our position, frankly, would be that the method probably that should be followed would be to notify the individual organizations who do participate and nowhere in the correspondence is there any--if as I read directly and hurriedly--is the position of the Pullman porters stated, except that they want to become one of the participating organizations.

MR. DONOHUE: Do you know of any procedure whereby organizations which desire to become represented on Division Three should proceed to do so?

MR. MULHOLLAND: The procedure is not related to the division except among the group after they are selected. All of the participating organizations pass or have a right to vote upon whether a union can become a participating organization. Thereafter they become a participating organization, that is when it is broken down into divisions and selection of the representatives of the various divisions is done.

MR. DONOHUE: However, the present participating organizations can condition their assent upon the applying organization becoming a representative only of one division, rather than the entire Board?

MR. MULHOLLAND: I imagine that would be a factor that would be considered, although up until now, or just recently, that question really hasn't arisen because historically the organizations are what we call craft or class organizations representing particular crafts or classes; and insofar as the present representation of the Pullman porters' organizations is concerned that question would not arise. It would only arise in the event they stepped out of their craft or class and went into another group.

There would be no question, for example, if the Pullman porters were allowed to participate under any division at the present time.

MR. EPSTEIN: That is the point I wanted to make.

MR. DONOHUE: You could not possibly inform us as to procedures which have been used in the past for the purpose of agreeing to particular organization having representation, could you?

MR. MULHOLLAND: I do not believe I can. I would not want to do it. I would have to do it from memory.

MR. DONOHUE: That has also been by unanimous consent or by formal proceedings, or information proceedings, do you know?

MR. MULHOLLAND: I do not believe it has always been by unanimous consent, but I am not sure. My recollection is that it has been by formal proceedings; a meeting has been called.

I might say that the last meeting that was held by the participating group was on February 26, 1947. There has not been a meeting since.

MR. DONOHUE: Have they ever utilized the Railway Executives' Association for the purposes of agreeing to a particular organization?

MR. MULHOLLAND: No.

MR. DONOHUE: But there is no reason why they cold not do so.

MR. MULHOLLAND: They could not do that because that would be leaving out of the consideration these organizations which do not belong.

MR. DONOHUE: There is no reason these organizations could not likewise utilize that Association, is there?

MR. MULHOLLAND: That is all done by individual organizations, not by any associations. I do not know what you mean by utilizing the Association, but I do not see how an Association could do anything about it. It is by the vote of the individual organizations, and some of the organizations are outside that Association.

MR. ENGLE: The Brotherhood of Railroad Trainmen is not a member of the Railway Executives' Association. We, of course, would not feel free to attempt to utilize the functions of the Railway Executives' Association. The same thing is true with respect to the Brotherhood of Locomotive Engineers. They do not meet with the Railway Executives' Association and in that connection I may say that we, the Brotherhood of Railroad Trainmen, never received any of this correspondence passing between Mr. Randolph, Mr. Harrison, Mr. Lyon, etc. We had no knowledge of this question being before anybody until we received a notice from the Secretary of Labor about the hearing.

MR. EPSTEIN: Mr. Engle, would you be willing to state for the record whether the organization which you represent in any way objects to the representation of the International Brotherhood of Pullman Car Porters representing the group of their membership in the selection of those who sit on the Adjustment Board?

MR. ENGLE: I do not think the organization would want to commit itself unless it had something in the record in the way of basis of claim, etc.

MR. EPSTEIN: Here is a national labor organization within the frame work of the railway industry in the country progressing a very substantial number of claims before the Adjustment Board, the organization being national in scope, representing crafts or classes of employees coming within the statutory definition and which wishes to participate as such, quite understandably so, in the selection of representatives who are to sit on the Adjustment Board. Can you observe any sound reason why such an organization, national in scope, within the framework of the railway industry, should not participate in a manner similar to the organization whom you represent?

Of course, you are a representative of your organization. You are not the official or the executive board.

MR. ENDLE: That would have to be presented to the executive officers. That would up to them. I would not want to put any words in their mouths.

MR. EPSTEIN: That would also be your position.

MR. MULHOLLAND: I have 20 bosses and I am much stronger in my convictions on that.

MR. EPSTEIN: Which I want to seek through you, too, Mr. Examiner, to obtain from the record is the anomalous position in which this national organization is placed when it is not and has not thus far been able to obtain the representation to merely sit and exercise the democratic privilege of at least attempting to select a member of the Railway Adjustment Board, which is accord under the statute to all the organizations that meet the qualifications of the statute which this record and the memorandum are directed to.

MR. MULHOLLAND: Someone must know who they are. Exhibit No. 11 apparently specifies the names of all the participating organizations.

MR. EPSTEIN: That the Secretary's exhibit. So far as we have been able to ascertain we have never been able to get any knowledge how or where or by whom these men are selected, except the general language of the statute.

Now, it strikes us, therefore, that you do have--the word "dispute" broadly construed is not necessary that it should be restricted to an argument between one or two organizations. It strikes me that under the general construction of the Statute in a situation of that kind where an organization that meets all the requirements of the statute seeks to become a participant in the selection of representatives under the statute and thus far has been unable to get to first base, that there is in the sense of the statute at least a dispute of which the Secretary should take cognizance of and, in due course, process it to the Mediation Board for determination under the statute. That is the sole purpose of this hearing.

TRIAL EXAMINER GRANT: Mr. Mulholland or Mr. Endle, do either of you gentlemen have any evidence to offer on the merits of the claim?

MR. MULHOLLAND: I have none.

MR. ENDLE: I have none.

TRIAL EXAMINER GRANT: Does that mean you might offer some, or that you have an intention to offer some later on after a study of the information has been submitted here? If there is any possibility of that, I am sure the Secretary would like to have the benefit of it.

MR. MULHOLLAND: We might leave it this way, if it is agreeable to the parties, that if we do not notify them within a week, we will not have any.

TRIAL EXAMINER GRANT: Very well, and would you also, might I ask, notify either me or the Secretary.

MR. MULHOLLAND: Whom should we notify?

TRIAL EXAMINER GRANT: You could notify me I suppose. Independently of that, do you care to have the opportunity of filing a brief?

MR. MULHOLLAND: I think I would like to file a memorandum on the jurisdictional question.

TRIAL EXAMINER GRANT: All right, sir. How long would you like to have to do that?

(Off the record)

TRIAL EXAMINER GRANT: Let the record show that Mr. Mulholland and Mr. Endle, if he so desires, will have three weeks from the receipt of the record in this case to submit to the Secretary a brief; and, of course, that carries with it the right of Mr. Epstein to reply.

Mr. Epstein, I have here handed to me a memorandum for the Secretary of Labor, copies of which you have furnished to Mr. Mulholland and Mr. Endle.

MR. EPSTEIN: Yes.

TRIAL EXAMINER GRANT: I suppose this is in the nature of a brief.

MR. EPSTEIN: What it really is is a summary of the substance of what constitutes the basic organizational character of the labor organization and how it meets all the necessary criteria which the Secretary set forth in one of the communications of a prior date as to what is necessary under the Act, and I think that it merely clarifies that.

It opens the door to whatever contentions may be offered. The reason I have prepared it in advance is that I think it is, particularly in the light of what Mr. Mulholland has said, a basis upon which people may act. This is the position taken and either which one contests the jurisdiction of the Secretary or, we believe, that they do not met the qualifications of the statute for this reason and that reason.

Therefore, all that would be necessary if there is such a brief in response from them is that I should have an opportunity to reply. There is very little case law of pretense in matters of this kind, Mr. Examiner. It is merely a question of construction and application of the statute by the Secretary in progressing it through the Mediation Board. These cases do not arise very often.

MR. DONOHUE: I take it that none of the parties represented here anticipate, at the present time, that they would want to present further matters for investigation before any action might be taken by the Secretary?

MR. EPSTEIN: We do not have any.

TRIAL EXAMINER GRANT: It is my understanding that Mr. Mulholland is going to let us know within one week--

MR. DONOHUE: With the exception of the brief and answers which have been mentioned before.

TRIAL EXAMINER GRANT: In addition to that Mr. Mulholland was going to let us know within a week whether or not he would like to offer any evidence in opposition to the claim of the Brotherhood of Sleeping Car Porters.

The reason why I am extending that opportunity is this. Mr. Mulholland has come here this morning contending that the Secretary does not have jurisdiction to proceed with this hearing and just out of the bare possibility that he might not have been prepared fully to proceed with themerits, I am extending him this opportunity of one week. If it developes that he has evidence to offer, I hope it is not going to be too great an inconvenience for us to reconvene. It may be that something can be submitted in the form of a memorandum with an opportunity on Mr. Epstein's part to reply, in lieu of a further gathering. I think that can be worked out.

MR. EPSTEIN: It is quite agreeable.

TRIAL EXAMINER GRANT: Well, gentlemen, it appears there is nothing further. I want to certainly extend the appreciation of the Secretaty and myself for your appearance here, and the cooperation which you have offered. That is all. Thank you very much.

MR. EPSTEIN: I wish to also thank you and the Secretary for the opportunity to appear.

TRIAL EXAMINER GRANT: The hearing will now close.

(Whereupon, at 12 o'clock noon, the hearing in the above-entitled matter was closed.)

CVF
legal matter

THE BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN
318 KEITH BLDG., CLEVELAND, OHIO

FOR RELEASE TO PRESS AND RADIO
AFTER ________________, 1948

FIREMEN'S UNION URGES EQUALITY

The Brotherhood of Locomotive Firemen and Enginemen, bargaining representative for the firemen's craft on all railroads in the country, served on southeastern railroads, on January 26, a demand for complete equality of treatment and the opportunity of promotion to engineer of all railroad firemen employed by those roads.

This action was taken, it is understood, as the consequence of recent court decisions supporting nonpromotable Negro firemen employed on southeastern railroads in their claim that present rules and practices unfairly discriminate against them. Under railroad operating practices, Negro firemen have not been considered eligible for promotion to engineers. The practice prevailing on these railroads is to promote only promotable white firemen in the order of their seniority, after they have qualified for service as engineers by taking promotion examinations. Failure to take or pass these examinations results, under the operating rules in effect on most railroads, in dismissal from the service, of firemen classed as promotable.

The demands recently served by the Brotherhood on the southeastern railroads seek to change present practices. They require that every fireman, regardless of race or previous status, be permitted to exercise straight seniority; that the distinction between promotable and nonpromotable men be abolished, and that opportunity for promotion be accorded to all firemen in service in the order of their seniority. These demands by the Brotherhood wipe out all distinction between the treatment of the firemen (both white and colored) now classed as promotable and nonpromotable, and provide that every fireman now or hereafter employed shall be examined for promotion to engineer and be promoted if he passes examination, after being allowed a reasonable time in which to prepare.

Brotherhood officials state that they are seeking entire equality of treatment for all members of the craft and will insist that such equality be accorded. The Brotherhood of Locomotive Firemen and Enginemen is the bargaining representative for the craft of firemen under the Railway Labor Act, and under that law all contracts involving wages, rules and working conditions of railroad firemen must be negotiated between the Brotherhood and the railroads.

Confidential

Car Cleaners

ROCHESTER, NEW YORK
June 5, 1949

NOTICE of discontinuance of yard force at Rochester, New York

Effective with the close of business on June 14th, 1949 the yard force at Rochester, New York will be discontinued, the following positions are discontinued:-

Head Cleaner	A. P. Pavone #3
Cleaner	H. E. Swanks #4
Cleaner	J. L. Rose #5
Cleaner	B. D. White #7
Cleaner	C. Lauricella #10

You have five (5) days in which to exercise your rights for displacement at Buffalo, in keeping with your Seniority, as per rule 57 of the agreement between the Pullman Co., and its car cleaning employees represented by The Brotherhood of Railway Carmen of America.

If you wish to have a leave of absence to arrange your domestic affairs, it will be granted.

C. Senn

UNITED STATES COURT OF APPEALS
For The Fourth Circuit

No. 6167

WILLIE J. ROLAX AND J.W. MCGOWAN, ORIGINAL PLAINTIFFS,
AND ATTAWAY A. FIELDS, OSCAR MAYO, NAMON SIPLIN,
A.C. LAMB, R.D. McCREARY AND JAMES MINOTT,
INTERVENING PLAINTIFFS,
APPELLANTS AND CROSS-APPELLEES,

versus

ATLANTIC COAST LINE RAILROAD COMPANY, A CORPORATION,
JAMES RIVER LODGE NO. 934, BROTHERHOOD OF LOCOMOTIVE
FIREMEN AND ENGINEMEN, AN UNINCORPORATED LABOR
ORGANIZATION, BEVERLY SMITH LODGE No. 615, BROTHERHOOD
OF LOCOMOTIVE FIREMEN AND ENGINEMEN, AN UNINCORPORATED
LABOR ORGANIZATION, AND RICHMOND LODGE No. 839,
BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN, AN
UNINCORPORATED LABOR ORGANIZATION, APPELLES: AND
BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN, AN
UNINCORPORATED LABOR ORGANIZATION, APPELLEES AND
CROSS-APPELLANT

CROSS-APPEALS FROM THE UNITED STATES DISTRICT COURT
for the EASTERN DISTRICT OF VIRGINIA, AT RICHMOND

Argued November 2, 1950

(2)

Before PARKER, SOPER and DOBIE, CIRCUIT JUDGES.

JOSEPH C. WADDY AND OLIVER W. HILL for APPELLANTS AND CROSS-APPELLEES: RALPH M. HOYT and WM. G. MAUPIN (HAROLD C. HEISS AND RUSSELL B. DAY on brief) for BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN, APPELLEE and CROSS-APPELLANT, and COLLINS DENNY, JR., (J.M. TOWNSEND on brief) for ATLANTIC COAST LINE RAILROAD COMPANY, APPELLE.

PARKER, CIRCUIT JUDGE:

These cross appeals in a suit instituted in the court below by Negro locomotive firemen employed by the Atlantic Coast Line Railroad Company against that company and the Brotherhood of Locomotive Firemen and Enginemen. The purpose of the suit was to have the court declare void the agreement of February 18, 1941, which was condemned by this Court in Brotherhood of Locomotive Firemen and Enginemen

v. Tunstall Cir. 165 F.2d 289, to enjoin the defendants from carrying out the terms of that agreement in violation of the seniority rights of plaintiffs and to recover damages on account of violations of seniority rights which had already occurred. The District Judge dismissed the suit on the ground that plaintiffs had shown themselves unwilling to do equity in that they had joined with others in obtaining an interlocutory injunction in a suit pending in the District of Columbia restraining the defendants from negotiating an agreement which would apply the principle of forced promotion or discharge to all Negro firemen working for the defendant railroad. See 91 F. Supp. 585. He taxed in favor of plaintiffs and against the Brotherhood costs, including attorneys' fees, incurred by plaintiffs in prosecuting the suits up to the time of obtaining the restraining order. Plaintiffs appeal from the dismissal of the suit, the Brotherhood from the portion of the order taxing costs against it.

In so far as the validity of the agreement of February 18, 1941, is concerned, the case is governed by our decision in the Tunstall case. The fact that this case was heard on oral evidence, whereas the Tunstall case was heard by affidavit on motion for summary judgment furnished no valid ground of distinction; for the facts were fully explored in the Tunstall case and the questions raised as to the validity of the agreement and the discrimination practiced against the Negro firemen are the same notwithstanding that bargaining between the Brotherhood and different railroads is involved. The facts out of which the controversy arises are, except as to one or two minor matters, precisely the same as those which were before us in the Tunstall case and were stated there as follows:

"The Brotherhood represents all locomotive firemen employed by the defendant railway company for purposes of collective bargaining under the Railway Labor Act, having been selected as bargaining agent by a majority of the craft. Negro firemen who constitute a minority of the craft, are not admitted to membership in the Brotherhood, but, nevertheless they must accept it as their bargaining representative, since it is the choice of the majority. Matters of great importance to locomotive firemen in the realm of collective bargaining are seniority rights and the rights and the right to promotion to the more highly paid position of locomotive engineer. Upon seniority depends the right to the more desirable runs and upon the right to promotion depends the possibility of advancing to the position of engineer. No railway company of the United States has ever employed a Negro as a locomotive engineer and the Negro firemen are recognized as non-promotable to that position. Other firemen, if they possess the requisite mental and physical qualifications are given opportunity to stand examinations for promotion to engineer, but not Negro firemen; and, because they are not promoted. Negroes serve for long periods as firemen and the seniority thus acquired enables them to obtain some of the best paid and most desirable runs in the company's services.

"The Brotherhood, as bargaining agent for all locomotive firemen in the Southeast, obtained from defendant railway and other Southeastern carriers, over their protest, contracts which had the effect of denying to a large number of Negro firemen desirable runs to which they were entitled by seniority and of giving these runs to white firemen. The Brotherhood accomplished this by contracts distinguishing between promotable and non-promotable firemen. On March 28, 1940, it made a demand on the defendant railway company and other Southeastern carriers to modify existing working agreements so that only promotable men would be employed as firemen. The carriers refused to agree to this, saying:

"As we understand this proposal, it is that the carriers parties to the conference obligate themselves that they will in future hire no non-promotable men. The effect of this would be to exclude from employment in our service perhaps a small number of white persons who, because of educational qualifications or physical handicaps, might not be promotable, and, in addition, would exclude from employment all colored persons, because, upon the properties represented by this committee, colored employees are not promotable to position of engineer. In our conference we endeavored to point out to you that we doubted the wisdom and fairness of making any such agreement as this, first because it would restrict the field from which we might draw employees in the event of a labor shortage, and, second, because we did not feel that such a large proportion of the population of the territory which we serve should be completely banned from employment as firemen upon our properties. As we said to you, these people are citizens of the country; it is necessary that they make a living; colored people are patrons of the railroads, and, in our opinion, we should not by agreement entirely exclude them from employment in positions which they have occupied and filled over the years.'

"Notwithstanding this protest of the railroads, the Brotherhood insisted upon its position, contending that it was in the interest of efficiency in the operation of the railroads that experience as firemen be acquired by men who could be advanced to the more responsible position of engineer, and that it was not fair to recently promoted engineers, to require that when they had to serve as firemen, as they frequently did, they take the less desirable runs. The Brotherhood finally succeeded, on February 18, 1941, in obtaining a modification of existing agreements to provide that the proportion of non-promotable firemen should not exceed fifty per cent in each class of service established as such on each individual carrier and that, until such percentage was reached on any seniority district, only promotable men should be hired and all new runs and vacancies should be filled by promotable men."

Not only does the record in the case before us fully sustain the foregoing statement, but it makes clear that the agreement of February 18, 1941, was obtained in the course of a campaign which had been conducted by the Brotherhood for a number of years to eliminate Negro firemen from the service of the railroads. Prior to 1919, when the first collective agreement was negotiated by the Brotherhood, at least 85% of the locomotive firemen on the defendant railroad were Negroes. Although there had been agitation by the Brotherhood prior to that time for the elimination of Negroes from the service, the agitation seems to have become more effective when the Brotherhood was recognized as bargaining agent, and in 1927 it secured an agreement that one-third of the firemen should be promotable or white firemen. Two years later in 1929, this proportion was raised by agreement to 50%. Later, following a campaign openly designed to get rid eventually of all the Negro firemen, the agreement here complained of was negotiated; and today only 35% of the firemen in the service of defendant railroad are Negroes.

The Brotherhood attempts to distinguish the case before us from the Tunstall case in that we do not have here the agreement of May 23, 1941, in which it was agreed with the Norfold Southern Railroad that "non-promotable" firemen as used in the agreement of February 18, 1941, should refer only to Negro firemen and that seniority of others should not be affected by failure to pass promotion examinations. There was no occasion for such an additional agreement with the Atlantic Coast Line Railroad, however; for the evidence shows that, on that railroad, the only "non-promotable firemen" was understood to refer to them, and to them alone. Furthermore, there is evidence of intent on the part of the Brotherhood to practice racial discrimination here with respect to the service of firemen that was not present in the Tunstall case. It appears that in the war year 1942, the Coast Line, being in need of additional firemen, arranged to take on a number of students, forty or fifty of whom were Negroes. The

Brotherhood immediately demanded that these Negroes be discharged and took a vote authorizing a strike if this were not done. The matter was compromised at the request of governmental authorities who were anxious to avoid a strike which would have hindered the war efforts; and, as the result of the compromise, only fourteen of the student firemen, those who had already been given employment status, were retained. The others, who had not acquired an employment status at the time but merely that of students, were discharged because of the Brotherhood's protest. The strike threat was held over the company, however, for five years or until 1948.

The same argument was made in the Tunstall case that is made here as to the importance of having firemen who are promotable to engineers; and the same answer applied here as there, viz., that a bargaining agent for all the firemen may not bargain for them in such way as to discriminate in favor of its own members against a racial minority whom it excludes from membership. It is idle to attempt to justify such discrimination on grounds of operating efficiency. Such efficiency is primarily the concern of the railroad, which had not thought it necessary to limit the seniority rights of Negro firemen until pressed to do so by bargaining on the part of the Brotherhood, whose main concern is the interest of its members. Mr. C.G. Sibley an experienced officer of the railroad, testifies that the percentage rule is not necessary to efficiency; and the railroad seems to have been operated efficiently when the proportion of non-promotable firemen was much higher than it is now. Undue emphasis has been placed upon difficulty experienced by the railroad in obtaining a sufficient number of engineers at the time of the Florida boom; but the Florida boom was a temporary condition and is nearly a quarter of a century behind us. Instead of a scarcity of engineers there is now such an over supply that, according to the testimony, many qualified engineers are serving as firemen.

It is proper, of course, for the defendant railroad to adopt such rules regarding the service of firemen as are necessary to provide experience for the training of engineers and to enter into agreements with the Brotherhood representing the firemen with regard thereto; but, there is no reason why this may not be done without substantial interference with seniority rights, and the Brotherhood may not make the need for proper rules of this sort a pretext for eliminating the Negro minority from the service of the railroad or securing for its own members desirable runs to which the Negro firemen are entitled under prevailing seniority rules. As we said in the Tunstall case, "It is clear that a bargaining agent which denies membership to Negro members of a craft which it represents cannot justify, in law or in reason the use of its power to force a contract from its employer, the effect of which is to discriminate against the Negro minority which it represents. The effect of racial discrimination is not avoided by passing it ostensibly on some other factor. The City of Richmond v. Deans, 4 Cir. 37 F. 2d 712, we held that a zoning ordinance which in effect discriminated on grounds of race would not be upheld merely because it was based on the legal prohibition of inter-marriage, which was itself based on racial grounds. So here discrimination against Negro employees cannot be sustained merely because it purports to be based on promotability, which is itself based on race. The fact that the railroads have discriminated against Negroes in the matter of promotability, does not justify the Brotherhood, which represents them as bargaining agents, in making a further discrimination based on that discrimination. Because the railroads do not permit Negroes to hold the position of engineers, is no reason why a bargaining agent representing them should use its bargaining power to deprive them of desirable positions as firemen which the railroads do permit them to hold. This seems so elementary as not to permit of argument."

The effort of this Brotherhood to discriminate against the Negro firemen on the ground of race in the agreement of

February 18, 1941, has been thrice before the Supreme Court, Steele v. L. & N.R. Co. 323 U.S. 192; Tunstall v. Brotherhood 323 U.S. 210, and Graham v. Brotherhood 338 U.S. 232. In the last of these cases the Supreme Court said:

> "The complaint alleges in substance that the Brotherhood is an exclusively white man's union and, as it includes a majority of the craft, it is possessed of sole collective bargaining power in behalf of the entire craft including the Negro firemen in consequence of the Railway Labor Act. It has negotiated agreements and arrangements with the southern railroads which discriminate against colored firemen, who are denominated 'not-promotable' while white ones are 'promotable.' The effect of the agreements is to deprive them, solely because of their race, of rights and job assignments to which their seniority would entitle them. Many Negro firemen have been thus displaced or demoted and replaced by white firemen having less seniority....It is needless to recite additional details of the present case. What it adds to the governing facts of the earlier cases is a continuing and willful disregard of rights which this Court in unmistakable terms has said must be accorded to Negro firemen."

Steele

In the Steel case, supra, the court had laid down the duty of a bargaining agent to represent fairly the members of the craft for whom it bargains and had unequivocally condemned any discrimination based on race, saying:

> "We think that the Railway Labor Act imposes upon the statutory representative of a craft at least as exacting a duty to protect equally the interests of the members of the craft as the Constitution imposes upon a legislature to give equal protection to the interests of those for whom it legislates. Congress has seen fit to clothe the bargaining representative

> with powers comparable to those possessed by a legislative body to create and restrict the rights of those whom it represents, cf. J.I. Case Co. v. Labor Board, supra, 335, but it has also imposed on the representative a corresponding duty . . . . Without attempting to mark the allowable limits of difference in the term of contracts based on differences of conditions to which they apply, it is enough for present purposes to say that the statutory power to represent a craft and to make contracts as to wages, hours and working conditions does not include the authority to make among members of the craft discriminations not based on such relevant differences. Here the discriminations based on race alone are obviously irrelevant and invidious. Congress plainly did not undertake to authorize the bargaining representative to make such discriminations."

And we do not think that the action of Negro firemen in seeking and obtaining an injunction in the Palmer case in the District of Columbia was any ground for denying them relief here against the discriminatory provisions of the contract of February 18, 1941. On the contrary, we think that the circumstances which led up to the obtaining of that contract furnish conclusive proof of the hostility of the Brotherhood towards the Negro firemen and utter disregard of their rights on its part. It appears that most of the Negro firemen now remaining in the service of the Southeastern railroads are comparatively old men with long periods of service as firemen, as few Negro firemen have been employed by these railroads since the nineteen twenties, and on the Coast Line the percentage of Negro firemen has dropped from 85 to 35 per cent. These men were employed as firemen, not as engineers, and have passed the period of life when they could qualify themselves for engineers or would be willing to make such a radical change in their life and habits. They are rendering satisfactory service as firemen and this is the only service that most of them are qualified for. Nevertheless, within a few weeks after the Supreme Court had denied certiorari in the Tunstall case and thus let stand our decision which condemned the agreement of February 18, 1941, discriminating against Negro firemen, the Brotherhood made demand on the Southeastern railroads that they put into effect the "forced promotion" rule against these Negro firemen and discharge all of them who failed to qualify as engineers.* As one of counsel for the Brotherhood admitted at bar of this court, this would have been disastrous to the Negro firemen. It would have meant that practically all of them would have been thrown out of their jobs after years of faithful service. It was to avoid such unfair and discriminatory treatment that the injunction in the Palmer case was sought.

We find no basis for holding that the Negro firemen were unwilling "to do equity" because they sought this injunction. To say that the forced promotion order put all firemen on an equal basis is to shut one's eyes to the real situation which existed and to allow the Brotherhood to make a cruel use of its bargaining power to get rid of the helpless minority whose rights the courts have been attempting to protect. As was well said by Judge Mullins in Mitchell v. Gulf, Mobile & Ohio R. Co. 91 F. Supp. 175, 181-182;

> "I am unwilling to follow a ruling which holds that Negro firemen have failed to do equity by not embracing the proposal of the Brotherhood to subject them to the 'Forced Promotion Rule', although at first

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* This demand was made by the Brotherhood on January 26, 1948, without notice to the Negro firemen and without giving them an opportunity to be heard with respect to the proposal. The question of requiring the Negro firemen to take promotional examinations had been discussed with their representatives early in the preceding year, but conditions which were not acceptable had been insisted upon and nothing further had been done about the matter until the demand of January 26, 1948.

blush it may appear fair to say that all firemen, both white and colored should be dismissed from service if they cannot qualify for position as engineers. Such a proposal is deceptive and a mere illusion in so far as these old Negro firemen are concerned because its adoption would only mean that they would lose their jobs as firemen. Such a proposal is but to keep the word of promise to the ear and break it to the hope.

"When this proposal was made to Mr. Thompson, Assistant Vice President of the Railroad, he branded it as an iniquity. I agree with him. He said, 'It is our judgment that practically all, if not all, of the non-promotable firemen now in our service would be "dismissed from the service." Most of these firemen have been in our service for twenty-thirty-forty years, and to dismiss them now after this long service solely because they are not qualified for promotion (which they never anticipated) would be an iniquity.' (Railroad's Exhibits 8). Mr. Thompson, when he referred to non-promotable firemen who had been in the service twenty-thirty-forty years, was talking about the colored firemen who are involved in this litigation.

"In lieu of this proposal, Mr. Thompson submitted to the Brotherhood a counter proposal which would have permitted these Negroes to retain their seniority with all other firemen and helpers until they reached the age of retirement. By its letter of March 15, 1948, the Brotherhood declined to accept the Railroad's counter proposal. If the Brotherhood had accepted the Railroad's counter proposal, the plaintiffs would have regained their seniority rights which they here seek to have restored. Such action by the Brotherhood would have only recognized equal seniority rights for all members of the craft and might have obviated this litigation. It is a wry anomaly that the Railroad was more concerned about its Negro firemen than the Brotherhood which was under a fiduciary obligation to represent them.

"Mr. Thompson is not alone in his judgment that the proposal suggested by the Brotherhood would cause practically all of these Negro firemen to be dismissed from railroad service. Mr. Lee, the general chairman of the defendant Brotherhood for the Atlantic Coast Line Railroad Company, testified in this case that the adoption of this proposal would probably mean at least 75% of the colored men would lose their jobs as firemen because they could not pass engineer's examinations.

"In my opinion, the failure of the colored firemen to indorse this plan could not amount to a failure to do equity. On the other hand, the submission of such a plan by the Brotherhood, with knowledge on its part that its adoption could only mean dismissal of these men from the jobs they now hold, does not constitute equitable conduct toward or a fair representation of these old Negro men who, for 20 to 40 years, did back-breaking work on steam locomotives. I cannot censure Negro firemen for going into court to enjoin the negotiation of such a proposal. This is merely an act of self-defense on their part. These Negro firemen are old and will soon pass out of the picture. When one of them was asked before me if he wanted to become an engineer, he replied that it was just 'too late in the evening' for him to become an engineer.

As Mr. Thompson pointed out, these men never

> anticipated that they would be required to stand examinations to become engineers. They were hired with the understanding that they could not become engineers, and have never been afforded an opportunity or given any incentive to study and train themselves to be engineers. My decision in this case is not based on the theory that the Railroad is required to promote them to that position. Although they may not be entitled to become engineers, they are entitled to have the courts protect their seniority rights as firemen or helpers during the last few years they will remain in railroad service."

To sum up, these Negro firemen were employed as firemen, not as engineers, and are entitled to just protection as such in any bargaining process in which the bargaining representative whose duty is to represent them may engage; because they have not been promotable to engineers, they have acquired seniority as firemen entitled them to desirable runs as firemen in the railway service; the Brotherhood will not admit them to membership because of their race but in the agreement of February 18, 1941, has used its bargaining power to deprive them of the seniority rights which they have earned through years of service; the Brotherhood attempts to justify this invasion of seniority rights on the ground that they stand in the way of the proper training of engineers but the railroad which is charged with responsibility in this matter does not consider such invasion of seniority rights necessary to that end; when stopped by the courts in its efforts to curtail the rights of the Negro firemen, the Brotherhood demands that the railroads adopt a forced promotion rule which will result in eliminating practically all of them from the service. In asking that the adoption of the forced promotion rule be enjoined, the Negro firemen have not done anything which, in our opinion, precludes their being granted relief against the February 18, 1941, agreement which we condemned in the Tunstall case. What relief shall be granted in the Palmer case, is a question for the court before which that case is pending, not for us. Hinton v. Seaboard Air Line Ry. Co. 4 Cir. 170 F. 2d 892.

The defendant railroad insists that, what ever is done with respect to other matters, the judgment dismissing the suit in so far as it asks damages against the railroad should be sustained. We do not agree. While the evidence does not support the allegations of conspiracy made against the railroad, this is not the end of its liability. As a result of the agreement of February 18, 1941, which we hold to be discriminatory and void, the railroad had failed to accord to certain of the Negro firemen the seniority rights to which they are entitled and must respond in damages on that account. The void and discriminatory agreement which it entered into with the Brotherhood from liability for the loss occasioned to those who were injured thereby. Such a recovery against a railroad in similar situation was sustained by us in the Tunstall, case, supra.

The defendant Brotherhood challenges the taxation of attorney's fees against it in favor of the plaintiffs Rolax and McGowan. Inasmuch as the whole matter of taxation of costs will be before the lower court when final judgment shall be entered herein, we think it unnecessary to discuss the matter at this time, except to say that under the circumstances here we think that the allowance of attorney's fees as a part of the costs is a matter resting in the sound discretion of the trial judge. Ordinarily, of course, attorneys' fees, except as fixed by statute, should not be taxed as a part of the costs recovered by the prevailing party; but in a suit in equity where the taxation of such costs is essential to the doing of justice, they may be allowed in exceptional cases. The justification here is that plaintiffs of small means have been subjected to discriminatory and oppressive conduct by a powerful labor organization which was required, as bargaining agents, to protect their interests. The vindication of their rights necessarily involves greater expense in the employment of counsel to institute and carry on extended and important litigation than the amount involved to the individual plaintiffs would justify their paying. In such situation, we think that the allowance of counsel fees in a reasonable amount as a part of the recoverable costs of the case is a matter resting in the sound discretion of the trial judge. See full discussion of the power of equity to award counsel fees by Judge Booth, concurred in by Judge Walter H. Sanborn and Judge Munger, in Guardian Trust Co. v. Kansas City Sou.Ry.Co. 8 Cir. 28 F 2d 233, 240 et seq., where the authorities are collected and analyzed. See also Universal Oil Products Co. v. Root Refining Co. 328 U.S. 575; Sprague v. Ticonic Bank 307 U.S. 161; Rude v. Buckhalter 286 U.S. 451; and 14 Am.Jur.45 and note 89 A.L.R. 1093 and cases cited.

For the reasons stated, the judgment appealed from will be reversed and the case will be remanded for further proceedings not inconsistent herewith.

Reversed.

CITY OF PHILADELPHIA
FAIR EMPLOYMENT PRACTICE COMMISSION
ROOM 395 A. CITY HALL
PHILADELPHIA 7, PA.

TELEPHONE: MUNICIPAL 6-9700

COMMISSION MEMBERS:
ROBERT J. CALLAGHAN, CHAIRMAN
L. B. F. RAYCROFT, SECRETARY
NORMAN BLUMBERG
F. CURTIS DAVIS
TANNER G. DUCKREY

EXECUTIVE DIRECTOR:
FRANK S. LOESCHER

January 30, 1951

Mr. A. Philip Randolph, President
Brotherhood of Sleeping Car Porters
217 W. 125th Street
New York City, New York

Dear Phil:

We have received a complaint against The Pullman Company. The Pullman Company advertised in Philadelphia for applicants for Pullman Conductors. Said conductors were to be put in training for permanent positions. A Negro, who met the advertised qualifications, applied and was told that the company had not thought of considering Negroes as Pullman Conductors but would consider him for a porter's job.

This situation violates The Fair Employment Practice Ordinance of the City of Philadelphia, and we have already been in contact with Mr. J. J. Fiora, Regional Manager of the company to (1) acquaint him with the Philadelphia law, and to (2) negotiate for correction of this particular act of discrimination.

Can you tell me whom we should contact in the Pullman Company on the policy-making level so that we can reach those who really issue the orders? Of course, any advice and information you can offer in tackling this situation would be appreciated.

We also have a couple of complaints on the upgrading policies of the Pennsylvania Railroad. Here, too, maybe you could offer some suggestions and perhaps some information on personalities of some of the "top brass" of the Pennsylvania Railroad.

Sincerely,

Milo A. Manly

MAM/dn

m

February 15, 1951

Mr. Milo Manly
Fair Employment Practice Commission
Room 398 A, City Hall
Philadelphia 7, Pa.

Dear Milo:

Thanks a lot for your letter of January 30th informing me of the complaint against the Pullman Company because of its advertisement in the Philadelphia papers for Pullman conductors, and their refusal to employ a Negro with proper qualifications who applied for the job.

The Executive Vice-President of the Pullman Company is Mr. M. B. Osburn, Merchandise Mart Plaza, Chicago 54, Illinois. I don't know the high brass in the Pennsylvania Railroad Company. Keep up the good work.

Sincerely yours,

A. Philip Randolph
International President

APR:RB

[Aug 28, 1951]

BEFORE THE COMMISSIONER OF LABOR
OF THE
STATE OF OREGON

James Fletcher, Jesse J. Fair,
Jasper Bogan, Mrs. Retter V. Booker,
and George W. Cornish,

Complainants

vs.

Local Webfoot Lodge No.
932 of the Brotherhood
of Railway Carmen of America,

Respondent.

FINDINGS OF FACT
and
ORDER

This matter coming on to be heard upon the consolidated complaints of James Fletcher, Jesse J. Fair, Jasper Bogan, Mrs. Retter V. Booker and George W. Cornish against Local Webfoot Lodge No. 932 of the Brotherhood of Railway Carmen of America, on the 21st and 22nd days of August, 1951, before me, the undersigned, as the duly and regularly elected, qualified and acting Commissioner of the Bureau of Labor of the State of Oregon, Complainants appearing in person, the said Bureau of Labor, as a legally constituted agency of the State of Oregon, being represented by Herbert A. Cooke, special counsel, and Mr. Gerald C. Knapp, Assistant Attorney General; Respondent appearing by and through its duly elected, qualified and acting officers and its attorney, Mr. Donald S. Richardson of the legal firm of Green, Richardson and Green, and testimony having been offered and received by the parties hereto, the Commissioner, being fully advised in the premises, finds the following facts:

(1). That the respondent herein is an unincorporated association functioning as a Trade Union and known as Local Webfoot Lodge No. 932 of the Brotherhood of Railway Carmen of America; that such local Lodge was organized during the month of August, 1949, and has operated continuously since such time; and that its headquarters and seat of operations are in Portland, State of Oregon, and within the jurisdiction of the Bureau of Labor of said State.

(2). That heretofore and upon January 12th, 1950, an application for membership in said Union filed by complainant James Fletcher, was acted upon by said Union; an application filed by complainant Jesse J. Fair was acted upon January 12th, 1950, and those applications filed by complainants Jasper Bogan, Mrs. Retter V. Booker, and George W. Cornish were acted upon on June 14, 1951. The Commissioner further finds, both from the testimony given and a stipulation entered into by and between the parties hereto, that all such applicants were eligible to membership under the rules of said Lodge, their applications presented to the membership for consideration, voted upon by secret ball ballot and sufficient adverse ballots cast to reject such applications and therefore deny the privileges of membership to such applicants. It is also found that applicant James Fletcher, above named, was rejected upon four additional occasions.

That, there were four additional persons, namely, Lucille Fair, Dora Anderson, Fred Wherry, and Willie Mae Stewart who likewise filed applications for membership in said Lodge and that all such applications were presented to the membership, voted upon and rejected. That the four persons last above named either did not file complaints against the said Lodge or else filed the same too late to be included in the instant proceeding. That all of said applicants are Negroes.

(3). The Commissioner further finds the fact to be that there is a definite prejudice against members of the Negro race by some of the members of the said Lodge and that, although at various times the officers and a substantial percentage of the membership have had Chapter 221, Oregon Laws of 1949, explained to them and were made aware of its requirements, yet it is manifest, from the facts disclosed, that the history of policies and practices of the respondent has been, persistently and continuously, from the time of its organization, one of entire exclusion from membership of Negro persons.

That, such exclusion is not the result of personal animus toward any one individual and also that, the eligibility of the complainants having been admitted by respondent by stipulation, the religion of the applicant cannot be considered to be involved in the reason for rejection. It is further found, from the admission of eligibility by stipulation and from the documentary evidence in the form of the Constitution of the Grand Lodge of the Brotherhood of Railway Carmen of America, introduced by respondent, and which Constitution contains rules and regulations known as "Subordinate Lodge Constitution" under which the respondent operates, that the national origin of complainants, or any of them, are also not involved as possible causes of rejection inasmuch as the qualifications for membership do not specifically require that an applicant be an American citizen but, on the contrary, provides methods to establish eligibility by those who are not American citizens.

(4). The Commissioner further finds that, subsequent to the time or times indoctrination into the provisions of the said Act was given the officers and members of the said Lodge, the rejection of Negro applicants continued, although they were admittedly eligible. It is further found that the said Lodge does not now have, nor ever has had, Negro members.

(5). The Commissioner finds that a prima facie case against the said Lodge under Chapter 221, Oregon Laws 1949, has been made based upon the admitted eligibility of complainants and the history of the policies and practices of the said Lodge as to Negro applicants and that, such case being made, the respondent has not, affirmatively, come forward with sufficient credible evidence to sustain the burden thereby imposed on it of proving that discrimination because of race or color was not the basis for the rejection of the applications of the complainants; and further finds, from the evidence, that the accumulated facts as to the policies and practices of the Lodge, coupled with its admission of the complainant's eligibility, are sufficient to warrant the presumption that an unlawful discriminatory practice has been indulged in and the disputable presumption that the law has been obeyed has been successfully overcome.

(6). As a conclusion, the Commissioner finds that the respondent has engaged in an unlawful employment practice within the meaning of Chapter 221, Oregon Laws of 1949, and as alleged in complainant's complaints, so therefore

IT IS ORDERED, that respondent, Local Webfoot Lodge No. 932 of the Brotherhood of Railway Carmen of America, cease and desist from such unlawful employment practices.

Dated at Salem, Oregon this 28th day of August, 1951

/s/ W. E. Kimsey
Commissioner of the Bureau of
Labor of the State of Oregon

I, W. E. Kimsey, Commissioner of the Bureau of Labor of the State of Oregon, hereby certify that I have compared the above Findings of Fact and Order with the original and that it is a true and correct copy of the same and of the whole thereof.

/s/ W. E. Kimsey

STATE OF OREGON)
) ss
County of Multnomah)

Due Service of the within Findings of Fact and Order is hereby accepted in Multnomah County, Oregon, this 29th day of August, 1951, by receiving a copy thereof, duly certified to as such by W. E. Kimsey, Commissioner of the Bureau of Labor of the State of Oregon.

/s/ William W. Rozelle
Pres. of Local Webfoot Lodge #932
of the Brotherhood of Railway
Carmen of America

/s/ Green Richardson & Green
8/29/51 By, James B. Griswold
of attorneys for Respondent

COPY

September 27, 1951

Mr. T. D. McNeal
International Representative
Brotherhood of Sleeping Car Porters
413-16 Peoples Finance Building
11 North Jefferson Street
St. Louis 3, Missouri

Re: Contempt Charges

Dear Mr. McNeal:

At long last Judge Ruddy of the Circuit Court of St. Louis has sustained our motion to quash the citation for contempt issued by the Court on May 16, 1950 at the request of Victor Packman and Henry D. Espy, attorneys for William King and Mike Harness, in their suit against E. B. Boggs, et al.

Said citation was issued against T. D. McNeal, Robert Gill, E. Matthews, Fletcher Freeman and Clif. Langsdale. The application for the citation was based upon the refusal of the first four named to testify at the taking of depositions unless all four should be permitted to remain in the room where the testimony was to be taken. The matter of the motion to quash was briefed back and forth and oral argument was had thereon before Judge Ruddy many months ago. Just recently Packman filed an additional brief. I am herewith enclosing four copies of the decision and order of the Court sustaining the motion to quash. I am mailing copies of this letter and of the said decision and order to President Randolph and to Vice-President Webster.

Under the law you have a right to sue Packman and Espy for damages for having a false citation issued against you. In my opinion it would be worthwhile to cause them the inconvenience of defending such a lawsuit.

With best wishes, I am

Sincerely,

Clif. Langsdale

CL/c

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

WILLIAM A. KING, et al.,
Plaintiffs,
vs.
E. B. BOGGS, et al.,
Defendants,
T. D. McNEAL, Intervenor,

No. 32,611-D
Div. No. 2

MEMORANDUM OPINION OF COURT

Defendants and Intervenor McNeal have filed their joint and several motion to quash citation and to dismiss Plaintiffs' application for contempt proceedings and in support of said motion have given three reasons. The Court feels compelled to sustain this motion for the first reason set out in said motion and for the following reasons:

The record made at the time of the taking of the depositions shows that at no time was the Notary Public asked to rule on the question of the separation of witnesses nor was any appeal made by Plaintiff's attorney or the attorney for Defendants and Intervenor to the Notary Public asking that the disputed question be certified to the Circuit Court for ruling and the record indicates that no order of exclusion of these witnesses was made by the Notary Public. These facts are related because it is the opinion of the Court that if any contempt was committed by the witnesses or by the attorney that the Notary Public alone had the power to cite for contempt.

In State vs. Taylor, 187 SW 1181, l.c. 1182 and 1183, the Court held:

> "Persons summoned as witnesses who refuse to give evidence lawfully required may be committed to prison by the officer or person authorized to take their depositions etc.
>
> "This is true because the right of litigants to take depositions is purely statutory, and the power of the Court, as well as the commissioner or other officer authorized to take depositions, is limited to the express terms of the statute."

In Ex parte Krieger, 7 Mo. Appeals 367, l.c. 370 and 371 the Court said:

> "But a notary, as a notary, has no power to commit for contempt; and contempt of court is a recognized offence, but there is no such thing known to the law as contempt of a notary-public.
>
> "It is only by reason of the exercise of a function in the manner and under the circumstances contemplated by the Legislature that there can here be contempt within the meaning of the law.

Also see Ex parte Smith 236 SW 371, l.c. 373.

I am sure that it will be conceded that the taking of a deposition is not necessary to a Court's existence and it requires no citation of authorities to prove that any violation of any process or order issued other than by a Court and not necessary to the Court's existence is not punishable for contempt by the Court. In this case the notice to take depositions was served by the attorney for the plaintiffs and the subpoenas were ordered issued under the direction of the Notary Public taking the depositions. No Court order was made requiring the presence of these witnesses or the giving of testimony. The Court has examined many cases and has failed to find a single case wherein the Court has cited parties or witnesses for contempt for any contumacious acts committed before a Notary Public. It is the Court's opinion that the Notary Public alone had the authority under the statutes to commit for contempt if the conduct of the witnesses was contemptuous in character. The only other alternative was for the Notary Public to certify the disputed question to the Circuit Court for ruling and if thereafter any order of the Court contained in its ruling was violated, the violation of such order would constitute a contempt over which the Circuit Court would have jurisdiction. No order has been made by the Circuit Court in this case.

The following is found in 26 CJS, page 879:

> "However, it has been held that if the witness is interrogated concerning any matter which he deems improper, he may refuse to answer, and in such case the commissioner may report to the Court, and the Court will rule on the question, and the examination must be suspended until the Court decides the matter."

Again in Schmidt vs. Cooper, 113 NE 641, l.c. 644 the Court held:

> "The statute permits the taking of depositions either before or after issue is formed, but, if

> a witness refuses to appear and testify, an order is necessary to enable the Court to punish the witness for contempt...."

Again in 26 CJS, pages 881 and 882, we find:

> "Frequently, however, the power to punish for contempt in connection with the taking of depositions is conferred on the commissioner; and where the statute confers this power on the commissioner and not on the Court the Commissioner alone can enforce it."

Our statute appears to confer this power "on the person authorized to take the deposition"

The following found in 26 CJS, Page 82 seems to be directly in point:

> "On the other hand, it has been held that where depositions are taken on mere notice, without any prior order of court, the court has no jurisdiction summarily to punish for disobedience of the commissioner's subpoena."

Support for this is also found in Schmidt vs. Cooper, 113 NE 641, l.c. 643. As a matter of fact Section 1923, Revised Statutes of Missouri 1939 specifically holds:

> "When the witness is found in this state, the deposition may be taken by the proper officer thereof without any commission or order from any court or clerk.

In view of the above ruling it becomes unnecessary to rule on the right of witnesses to be present at the taking of the depositions.

/s/ E. M. Ruddy
Judge

September 14, 1951

September 27, 1951

Mr. Milton P. Webster
1st International Vice President
Brotherhood of Sleeping Car Porters
3947-59 Drexel Boulevard, Second Floor
Chicago 15, Illinois

Re: A. Phillip Randolph, et al. v. Brotherhood of
Railroad Trainmen, et al.

COPY

Dear Mr. Webster:

I have just received notice that Judge Reeves has sustained our request for a permanent injunction against the trainmen and the M-K-T Railroad Companies and that he has asked me to draw the order of injunction.

Enclosed are copies of the decision just handed down by Judge Reeves on September 24 in the above case.

Also enclosed are copies of order of Judge Reeves overruling all of the motions filed in said case by the defendants.

Also enclosed are copies of the order of permanent injunction which the Court has ordered me to prepare.

I am sending copy of this letter and enclosures to President Randolph and T. D. McNeal. With best wishes, I am

Sincerely,

Clif. Langsdale

CL/c
encs

September 27, 1951

Mr. Milton P. Webster
1st International Vice President
Brotherhood of Sleeping Car Porters
3947-59 Drexel Blvd., Second Floor
Chicago 15, Illinois

STATEMENT OF ACCOUNT

In the matter of obtaining permanent injunction in the case of A. Phillip Randolph, et al. v. Brotherhood of Railroad Trainmen

..................$2500.00

COPY

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DIVISION
OF THE WESTERN DISTRICT OF MISSOURI

A. Phillip Randolph, et al., Plaintiffs, v. Missouri-Kansas-Texas Railroad Company, a Missouri Corporation, and Missouri-Kansas-Texas Railroad Company of Texas, a Texas Corporation, and R. D. Wood, Roy Elliott Lang, John Williams Dearing and Hollis Orval Thompson, and Brotherhood of Railroad Trainmen, Defendants.	No. 4211

ORDER

Being fully advised in the premises and having duly considered the same, the Court doth now order and adjudge:

1. That the Missouri-Kansas-Texas Railroad Company and Missouri-Kansas-Texas Railroad Company of Texas and their agents, officers and representatives, be and they are hereby permanently enjoined from violating the terms of the contract pleaded in the Complaint and Supplemental Complaint, and of the agreed custom in the original complaint described, and are enjoined from disturbing the status of plaintiffs as it now exists under said contract and custom, and taking from plaintiffs performance of the duties performed by the Train Porters as described in said complaints, and enjoined from complying with the demands of the Brotherhood of Railroad Trainmen as alleged in said complaints.
2. That the Brotherhood of Railroad Trainmen, and the officers and members thereof, be permanently enjoined from interfering with the contractual relation between the Train Porters and the Carriers by in any manner as described in plaintiffs' Complaint and Supplemental Bill of Complaint seeking to cause the Carriers to repudiate and violate or terminate the contract and custom described in the Complaint and Supplemental Bill of Complaint.

____

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DIVISION
OF THE WESTERN DISTRICT OF MISSOURI

A. PHILLIP RANDOLPH, et al.,
Plaintiffs,

-vs-

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, a Missouri corporation, and MISSOURI-KANSAS-TEXAS RAILROAD COMPANY OF TEXAS, a Texas corporation, and R. D. WOOD, ROY ELLIOTT LANG, JOHN WILLIAM DEARING and HOLLIS ORVAL THOMPSON, and BROTHERHOOD OF RAILROAD TRAINMEN,
Defendants.

No. 4211

MEMORANDUM ON MERITS OF THE CASE:

The above case came on for final hearing on May 29, 1951. By a stipulation of the parties the proceedings on previous hearings were made a part of the record. This means that all evidence previously taken was to be considered in the final hearing. Additional testimony was offered at the hearing and the defendants Trainmen were granted leave to file motion to strike, motion to dismiss plea to the jurisdiction of the court, and, in like manner, they were granted leave to file an amended answer to plaintiffs' complaint as well as a cross claim to defendants railroads. They were also granted leave to file a motion to vacate order permitting the plaintiffs to file their supplemental and dependent bill of complaint filed September 29, 1948, and to vacate and set aside restraining order of September 29, 1948, and other motions.

At the conclusion of the hearing the parties were granted leave to file requests for findings of fact and statements of conclusions of law. This has been done by all of the parties, that is to say, the plaintiffs, the corporate defendants, and the Trainmen defendants.

The plaintiffs requested that the findings of fact and conclusions of law heretofore given by the court be made the findings of fact and the statement of conclusions of law on the final hearing.

The evidence on final hearing has been examined together with the briefs of the parties and the identical conclusion is reached as that on the previous hearing. The factual situation was unchanged by additional evidence.

The several motions of the defendant Trainmen are largely repetitious and same have been examined and should be overruled.

The findings of fact proposed by the plaintiffs, including those heretofore given, together with statement of conclusions of law appear to be in harmony with the evidence and the same are granted as requested, in toto, including, as stated, findings of fact and conclusions of law heretofore given on behalf of the plaintiffs.

The findings of fact and statement of conslusions of law offered by the Trainmen have been examined, and such findings designated as 1, 2, 2A, as well as 3, 4, 5, 6. 7, have all been given as requested. All of the rest, up to and including requested finding el, have been refused, and, in like manner, all of the requested conclusions of law submitted by defendant Trainmen (32 in number) have been refused except requested conclusion 6, as follows: "The named defendant, E. R. Bryan (who died May 15, 1951) is not a party to this action, having neither been served with process nor having entered his appearance herein." The court relies upon the assurance of counsel that such is a fact. It appears that this conclusion should have been a finding of fact submitted in the requests for such.

As indicated, all of the supplemental findings requested by the plaintiffs have been given, together with their requested statement of conclusions of law. The supplemental findings requested by plaintiffs are 13 in number, and the conclusions of law are 7 in number, including an additional one not numbered, but entitled "RANDOLPH, ET AL. v. MISSOURI-KANSAS-TEXAS, FINDINGS OF FACT." This was presented after the trial and was supplemental to the formal requests previously made.

The corporate defendants have submitted 25 requests for findings of fact. These have been examined and appear to be in harmony with those given for the plaintiffs, perhaps, in many instances, covering the same subject matter. These have been given as requested. If, however, they should be in conflict with those given for the plaintiffs, then findings of fact given for plaintiffs should prevail. The conclusions of law requested by the railroads have all been given save the 1st and the 17th; the court is doubtful whether these two requested conclusions of law should have been given but resolved the doubt in favor of the plaintiffs.

In view of the above, a decree should be rendered as requested by the plaintiffs, and same will be prepared and submitted by counsel for plaintiffs. An order overruling all motions will be filed at the same time this memorandum is filed.

Kansas City, Missouri, September 24, 1951.

/s/ Albert L. Reeves
United States District Judge

October 29, 1951

Mr. Milton P. Webster, Chairman
International Executive Board
Brotherhood of Sleeping Car Porters
3947-59 Drexel Boulevard
Chicago 15, Illinois

Dear Mr. Webster:

Since my letter to you of September 27, 1951, the form of proposed decree that I enclosed therein has been considerably revised. I am herewith enclosing a copy which the Court did, on October 26, approve and which is now the final decree and permanent injunction in the case.

I added several clauses to the one which I mailed you at the request of the railroad companies. They wanted still other clauses which I refused to add to my proposal. Whereupon, they submitted to the Court additional findings of fact to the effect that the conduct of the Trainmen in filing claims would bring about irreparable damage to the railroads, which the Court refused to give and about which the Court wrote a memorandum opinion, copy of which is herewith enclosed. It was my thought that as the railroads had not offered evidence to the effect that the filing of such claims would result in irreparable injury to the railroads that they were not entitled to such a conclusion in the final decree.

With best wishes, I am

Sincerely,

Clif. Langsdale

CL/c
encs
cc: Mr. Randolph

Mr. McNeal

COPY

October 29, 1951

Mr. Milton P. Webster, Chairman
International Executive Board
Brotherhood of Sleeping Car Porters
3947-59 Drexel Boulevard
Chicago 15, Illinois

Dear Mr. Webster:

I have not heard from you with reference to the statement of account for services for $2500.00 which I mailed you on September 27. I hope that you can send me a check for same dated not later than October 31, 1951, in order that I may avoid paying the added Federal Income Tax which becomes effective November 1.

With best wishes, I am

Sincerely,

COPY

Clif. Langsdale

CL/c

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN
DIVISION OF THE WESTERN DISTRICT OF MISSOURI

A. PHILLIP RANDOLPH, et al.,

Plaintiffs,

-vs-

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, a Missouri corporation, and MISSOURI-KANSAS-TEXAS RAILROAD COMPANY OF TEXAS, a Texas corporation, and R. D. WOOD, ROY ELLIOTT LANG, JOHN WILLIAM DEARING and HOLLIS ORVAL THOMPSON, and BROTHERHOOD OF RAILROAD TRAINMEN,

Defendants.

No. 4211

MEMORANDUM ON APPLICATION OF THE DEFENDANT RAILROAD COMPANIES FOR ADDITIONAL FINDINGS OF FACT

The basis of this request is that the claims of the defendant trainmen for doing the work in controversy are of such a harassing nature and that the amounts claimed are so large that they imperil the said railroads and would cause irreparable injury.

The only issue in the case is whether the plaintiffs had a contract with the railroads which the defendant trainmen were endeavoring to coerce the corporate defendants to cancel. The court found that said contract was a valid and subsisting contract and that the plaintiffs were entitled under said contract to perform the services claimed by the trainmen as a part of their duties. The decree of the court is an adjudication that this work of the porters does not belong to the trainmen and it would follow that the decree of the court, if affirmed by the Court of Appeals, would establish the contract between the plaintiffs and the corporate defendants as a valid contract. The trainmen would have no right, therefore, in the light of this adjudication to interpose or prosecute claims against the railroad company of the kind mentioned by the corporate defendants.

The court properly relies upon careful observance of the decree by all of the parties to this litigation.

It is a rule in equity of universal application that a court of equity will not afford protection against imaginary or fanciful wrong and injury. Jones v. Highland Memorial Park, 242, S.W. 250. This is a Texas case but it expresses a recognized equitable principle. Since the trainmen, under this decree, would have no right in law to interpose claims against the corporate defendants, then clearly the wrongs urged by the corporate defendants would be purely imaginary and fanciful. For that reason the request is denied and the decree tendered by the plaintiff is entered as submitted.

Kansas City, Missouri, October 26, 1951.

ALBERT L. REEVES
United States District Judge

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DIVISION OF THE
WESTERN DISTRICT OF MISSOURI

A. PHILLIP RANDOLPH, et al.,
Plaintiffs,

v.

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, a Missouri corporation, and MISSOURI-KANSAS-TEXAS RAILROAD COMPANY OF TEXAS, a Texas corporation, and R. D. WOOD, ROY ELLIOTT LAND, JOHN WILLIAM DEARING and HOLLIS ORVAL THOMPSON, and BROTHERHOOD OF RAILROAD TRAINMEN,
Defendants.

No. 4211

FINAL DECREE

The above entitled and numbered cause came on for final hearing on the 29th day of May, 1951, and the plaintiffs A. Phillip Randolph and Milton P. Webster, individually and as International President and First International Vice-President of the Brotherhood of Sleeping Car Porters, Train, Chair Car, Coach Porters and Attendants, William P. Orr, O. S. Scarborough, Sr., W. E. McCanless, W. S. Davis, W. H. Merrill, C. W. Jones and C. E. Harvey, individually and as class plaintiffs of the class called "Train Porters", appeared in person and by their attorney; and the plaintiffs, Brotherhood of Sleeping Car Porters, Train, Chair Car, Coach Porters and Attendants, an unincorporated labor union, and Local Train Porters Union No. 3, an unincorporated local union and a union of train porters employed by defendants Missouri-Kansas-Texas Railroad Company and Missouri-Kansas-Texas Railroad Company of Texas, appeared by their attorney; and the defendants, Missouri-Kansas-Texas Railroad Company and Missouri-Kansas-Texas Railroad Company of Texas appeared by their attorneys; and the defendants R. D. Wood, Vice General Chairman of the Brotherhood of Railroad Trainmen, Missouri-Kansas-Texas Lines, Roy Elliott Lang, Local Chairman, First District, Brotherhood of Railroad Trainmen, Missouri-Kansas-Texas Lines, John William Dearing, President of the Local Lodge, Brotherhood of Railroad Trainmen, Missouri-Kansas-Texas Lines, and Hollis Orval Thompson, Local Chairman, 2nd District, Secretary-Treasurer of Local Lodge, Brotherhood of Railroad Trainmen, Missouri-Kansas-Texas Lines, individually and as class representatives of the Brotherhood of Railroad Trainmen on the railroad system operated by defendants Missouri-Kansas-Texas Railroad Company and Missouri-Kansas-Texas Railroad Company of Texas, appeared in person and by their attorneys; and defendant Brotherhood of Railroad Trainmen, an unincorporated labor union, appeared by its attorneys.

The Court finds that this Court has jurisdiction of the subject matter and the parties by reason of a diversity of citizenship and an adequate amount in controversy.

And the Court, after hearing and considering the evidence and the arguments of counsel and considering the briefs of all parties, finds that the defendant railroad companies, by contract in writing dated December 3, 1928, entered into with the plaintiffs, agreed specifically as to wages, working conditions, rules and regulations applicable to train porters, and, although said contract has since said date been modified, expanded and construed, yet, it was at the time of filing this suit and is at the present time in full force and effect,

And It Further Appearing that, among other services and benefits of said contract provided for and vouchsafed to the plaintiffs are the following:

1. Inspect cars and trains and test signal and brake apparatus for the safety of train movements, as per Carrier's rules.

2. Use hand and lamp signals for the protection and movement of trains and engines, including the necessary flat protection on the head end of trains, or through block.

3. Open and close switches and derails for switching and for the movement of trains and engines enroute; around wyes; and at some terminals.

4. Couple and uncouple cars and engines and the hose and chain attachments thereof, both enroute and at some passenger terminals.

5. Pick up, set out, place and switch loaded and occupied passenger cars enroute and at some passenger terminals.

6. Read the Conductor's train orders and familiarize

> himself with them to determine where opposing trains are to be met or passed, and observe position of all train order signals and see that train orders affecting the movement of trains are picked up enroute.

And It Further Appearing that the said defendant railroad companies have threatened and are now threatening to abrogate and cancel the said contract of December 3, 1928, with all modifications thereof, and, that, on June 7, 1946, the said railroad companies formally notified the plaintiffs of such purpose,

And It Further Appearing that the action of the railroad companies in thus seeking and endeavoring to abrogate and cancel said contract and the modifications thereof was brought about by the defendant brotherhood and the individual members thereof in threatening and coercing said railroad companies to take such action and that this was done by the said defendants, or some of them in filing and threatening to file against the railroad defendants and each of them a claim for each available brakeman first out on the extra board at the time any train is run on which any of said duties are performed by a train porter, and on the same basis as though such brakeman were used to perform the duties of a brakeman on said train, and by threatening to take a strike vote unless there should be a compliance with their said demands.

And the Court further finds that the abrogation and cancellation of said contract and the deprivation of said work would cause great and irreparable damage to the plaintiffs and those train porters working for said railroads and represented in this suit by plaintiffs by depriving them of employment and wages.

And the Court further finds that the defendant Brotherhood of Railroad Trainmen and the individual defendants by such threats and coercive actions were and are now seeking to deprive the plaintiffs of employment and the wages rightfully belonging to them, and which employment and wages would be transferred, assigned and accorded to the said defendants and that thereby plaintiffs would suffer irreparable damages.

It Is Therefore Ordered and Adjudged As Follows:

That the defendant railroad companies be and they hereby are permanently enjoined and restrained from violating the terms of the contract hereinbefore mentioned and thereby disturbing the status of the plaintiffs under said contract with all modifications thereof, including customs and habits indulged and approved because of said demands and threats of the Brotherhood of Railroad Trainmen and individual defendants; and the said railroad companies are enjoined from taking from the plaintiffs the performance of the said duties heretofore rendered by them and now being rendered by them, pursuant to the said contract, customs and habits, because of said demands and threats of the Brotherhood of Railroad Trainmen and individual defendants;

That the Brotherhood of Railroad Trainmen and all the members thereof engaged in working for the defendant railroad companies and the individual defendants be and they hereby are restrained and enjoined from seeking to enforce their said demands by such claims and suits as are herein described against the defendant railroad companies and by threats to take a strike vote; and they are further enjoined and restrained from coercing said railroad companies by prosecuting claims heretofore filed or by threatening to file or by filing claims arising from the said work performed by the plaintiffs; they are further enjoined and restrained from so interfering with the contractual relations, as above stated, between the said train porters and the said railroad companies, and inducing or coercing said railroad companies to repudiate, abrogate, cancel or violate their said contractual obligations with plaintiffs.

It Is Further Ordered, Adjudged and Decreed that all costs in this cause be and hereby are taxed against the defendants, jointly and severally, and that execution shall issue for all costs so taxed which have not already been paid by the defendants.

Entered at Kansas City, Missouri, October 26, 1951.

/s/ Albert L. Reeves
United States District Judge

C O P Y

COOPER, MITCH & BLACK
1124-1128 Brown-Marx Building
Birmingham 3, Alabama

October 29, 1951

Mr. Matt Mitchell
2744 20th Street
Tuscaloosa, Alabama

Re: Matt Mitchell, et al v. G.M.& O Railroad, et al

Dear Matt:

I am happy to inform you that your national officers have finally negotiated an agreement settling this case.

Under that settlement, damages to be paid each of the men will not be great, and our real victory lies in the permanent injunction by which you and all the other plaintiffs are permanently protected against the type of discrimination that existed before your suit was filed.

By the terms of the settlement, approved by Mr. Randolph, a permanent injunction has been entered today, and the Brotherhood has paid $10,000.00 as damages, attorneys' fees, and costs of the litigation. Mr. Randolph has agreed that, of that amount, $5,000.00 will be paid to us as our fee, and the balance will be forwarded to the Provisional Committee to be distributed by it after a conference of Negro firemen from all the railroads. Apparently, the provisional Committee is considering distributing proceeds of the various suits upon a basis of a decision to be made by a conference of the men on all the roads. We hope that you will long continue to enjoy the benefits of this permanent injunction, and when any of you are next in Birmingham, we hope you will come by to see us.

With every good wish, I am

Sincerely,

(s)

Jerome A. Cooper

JAC:jb
Cc: Mr. George Sams
Mr. James Harris
Joseph L. Rauh, Jr., Esquire

COPY

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

MATT MITCHELL, JAMES HARRIS and GEORGE SAMS, et als, for and in behalf of themselves and others similarly situated,

Plaintiffs

v. No. 537

GULF, MOBILE AND OHIO RAILROAD COMPANY, a corporation; BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN, an unincorporated association; LOCAL LODGE NO. 769, BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN, an unincorporated association; and GEORGE E. COX,

Defendants

ORDER

This matter coming on to be heard upon motion of plaintiffs' for the appointment of a master, and plaintiffs and the defendant Brotherhood of Locomotive Firemen & Enginemen, hereinafter referred to as "Brotherhood", being present by counsel, and it appearing to the Court that plaintiffs and the Brotherhood have consented to the entry of this decree,

It is ORDERED, ADJUDGED and DECREED:

1. That the rights of the plaintiffs and of all members of the class represented by the plaintiffs have been and are hereby adjudicated and satisfied.

2. That all claims, as set out in the complaint, of any members of said class or of any persons entitled to the benefits of this suit who did not expressly join this action within sixty (60) days after May 2, 1950, as provided in paragraph III F of the judgment herein entered on said date be, and same hereby are, declared barred.

3. That the defendant Brotherhood of Locomotive Firemen and Enginemen, its officers, agents, employees, members and attorneys and all persons in active concert or participation with them be, and they hereby are restrained and enjoined from:

Directly or indirectly requiring or inducing or compelling the Gulf, Mobile & Ohio Railroad to recognize or comply with the provisions of the agreements between the Gulf, Mobile & Ohio Railroad Company and the said Brotherhood, dated July 1947, November 15, 1946, September 19, 1940 and May 1, 1924, and practices thereunder, and of similar agreements applicable to the Tennessee, Alabama and Louisiana Divisions of defendant railroad, and practices thereunder, or with the provisions of any other agreements, understandings or practices between the Gulf, Mobile & Ohio Railroad and the said Brotherhood insofar as any such provision (a) requires said railroad to discriminate against plaintiffs because they are Negroes or because they are so-called "non-promotable" employees, or because they are unable to pass examination for engineers, of (b) fails to grant plaintiffs rights, based upon continuous service, to assignments as firemen on steam locomotives or as helpers on Diesel locomotives so long as white firemen are given such rights. The benefits of Part I of the judgment entered herein May 2, 1950, and of this order shall, and are herewith expressly decreed to accrue only to the individuals named as plaintiffs in Finding of Fact No. 1 made herein on May 2, 1950, and cannot be availed of by any other person or organization.

4. That in all other respects, the original judgment herein, entered May 2, 1950, remain in full force and effect, except as expressly modified by (a) the mandate of the Court of Appeals, and (b) by hereby notifying paragraph III A of said judgment to read as follows:

"III. It is further ordered that:

A. The defendant Brotherhood cooperated fully in the maintenance of a non-discriminatory system of job assignments applicable to plaintiffs on the railroad and in future negotiations as representative of the craft of firemen-helpers. The word 'non-discriminatory', as used in this paragraph, refers to discriminations of the type covered by paragraph II (a) above."

5. That said motion be and same hereby is denied and all costs accrued herein are hereby taxed against said defendant, for which let execution issued as provided by law.

Done and ordered this 29th day of October, 1951.

(s) Seybourn H. Lynne
United States District Judge

A True Copy:

(s) Chas. B. Crow
Clerk, U.S. District Court
Northern District of Alabama

IN THE

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 13602

ZETTLER C. CLAY,

Appellant,

vs.

M. P. CALLAWAY, Trustee in Bankruptcy of Central of Georgia Railway Company,

Appellee.

Appeal from the United States District Court for the Southern District of Georgia

------

(November 6, 1951)

Before MCCORD, RUSSELL, and RIVES,

Circuit Judges.

PER CURIAM: The nature of this case sufficiently appears from the report on former appeal, 177 F. 2d 741, rehearing denied, 178 F. 2d 758. The case has now been heard fully by the district court, upon the record of the investigation before the railroad superintendent, upon oral testimony offered by the parties, and upon the examination of witnesses requested by the court. At the conclusion of the evidence the court entered detailed findings of fact and conclusions of law. In brief the court found that when the appellant was reinstated in December, 1943 there was no intention to clear his record of any charges other than those on which he had been tried and dismissed in August, 1943, and that thereafter as a result of a fair hearing of the appellant on May 19th and 20th, 1944, on other charges duly preferred against him, he was discharged. On a consideration of the record and of the briefs and arguments of counsel we find ourselves in agreement with the district judge. The appellant has had his full day in court, and the judgment is AFFIRMED.

A True copy:
Teste

Clerk of the United States Court
of Appeals for the Fifth Circuit.

CLF
Legal

November 13, 1951

Mr. Joseph L. Rauh, Jr.
1631 K Street, N.W.
Washington, D. C.

Dear Mr. Rauh;

Just a word to thank you for your letter of November 1, 1951 with enclosures including a letter from Mr. Jerome A. Cooper, Attorney in the Gulf, Mobile and Ohio firemen case, to Mat Mitchell fireman, Tuscaloosa, Ala. and copy of order re the firemen case together with check for $5,000 made out to the Provisional Committee to Organize Colored Locomotive Firemen. This is one half of the $10,000 paid by the Brotherhood of Locomotive Enginemen and Firemen as damages, attorney fees and cost of litigation.

I also note that permanent injunction has been entered for the protection of the colored locomotive firemen.

When all the cases involving our members have been concluded, I shall call a conference of the Provisional Committee to Organize Colored Locomotive Firemen for the purpose of dealing with the question of the distribution of damages secured, to the members of our Committee and also to work on plans for the handling of grievances for colored locomotive firemen in relation to the Brotherhood of Locomotive Enginemen and Firemen.

I also note your comment on what ought to be done in the cases handled by Attorney Johnson of Macon.

Sincerely yours,

APR:ha

A. Philip Randolph
International President

LAW OFFICES
RAUH AND LEVY
1631 K STREET, NORTHWEST
WASHINGTON 6, D. C.

JOSEPH L. RAUH, JR.
HOWARD R. SACKS

REPUBLIC 7795

November 1, 1951

Mr. A. Philip Randolph
International President
Brotherhood of Sleeping Car Porters
217 West 125th Street
New York 27, New York

Dear Mr. Randolph:

The GM&O suit was settled on Monday, October 29th. District Judge Lynne signed the order which makes final and permanent the injunction to protect the men for the rest of their lives. Coincident therewith, the White Brotherhood handed Cooper a check for $10,000 made out jointly to Cooper and to me. I deposited the check in our special account. I enclose herewith a check for $5,000 made out to the Provisional Committee and I have also forwarded to Cooper a check for $5,000 covering his fees and expenses.

In addition to the check, there are enclosed herewith copies of the order signed by Judge Lynne and of Cooper's letter to Matt Mitchell. This letter follows exactly the instructions given by Ben McLaurin and makes clear to the men that the distribution of any damages must await a conference of the Negro Firemen from all the railroads.

I believe that the settlement of the GM&O case will expedite final action in the Graham case. Now that the ice has been broken, we should be able to make a little more speed with the lawyers for the White Brotherhood.

As I told Mac over the telephone this morning, I think the time has come to talk turkey with Tom Johnson. I believe we should settle his two cases here and now without further expenditures. It is just an unnecessary drain on the Provisional Committee and the Brotherhood of Sleeping Car Porters to keep financing Johnson's expenses under these circumstances.

I can't tell you how much pleasure it gives me to be sending this money to you. While our real victory is in the injunction, not in the money, it is still a great joy to be able to forward this check to you.

Sincerely yours,

Joseph L. Rauh, Jr.

Enclosures

C O P Y

COOPER, MITCH & BLACK
1124-1128 Brown-Marx Building
Birmingham 3, Alabama

GM) O October 29, 1951

Mr. Matt Mitchell
2744 20th Street
Tuscaloosa, Alabama

Re: Matt Mitchell, et al v. G.M.& O Railroad, et al

Dear Matt:

I am happy to inform you that your national officers have finally negotiated an agreement settling this case.

Under that ~~settlement~~, damages to be paid each of the men will not be great, and our real victory lies in the permanent injunction by which you and all the other plaintiffs are permanently protected against the type of discrimination that existed before your suit was filed.

By the terms of the settlement, approved by Mr. Randolph, a permanent injunction has been entered today, and the Brotherhood has paid $10,000.00 as damages, attorneys' fees, and costs of the litigation. Mr. Randolph has agreed that, of that amount, $5,000.00 will be paid to us as our fee, and the balance will be forwarded to the Provisional Committee to be distributed by it after a conference of Negro firemen from all the railroads. Apparently, the provisional Committee is considering distributing proceeds of the various suits upon a basis of a decision to be made by a conference of the men on all the roads. We hope that you will long continue to enjoy the benefits of this permanent injunction, and when any of you are next in Birmingham, we hope you will come by to see us.

With every good wish, I am

Sincerely,

(s)

Jerome A. Cooper

JAC:jb
Cc: Mr. George Sams
Mr. James Harris
Joseph L. Rauh, Jr., Esquire

COPY

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

MATT MITCHELL, JAMES HARRIS and GEORGE SAMS, et als, for and in behalf of themselves and others similarly situated,

Plaintiffs

v. No. 537

GULF, MOBILE AND OHIO RAILROAD COMPANY, a corporation; BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN, an unincorporated association; LOCAL LODGE NO. 769, BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN, an unincorporated association; and GEORGE E. COX,

Defendants

ORDER

This matter coming on to be heard upon motion of plaintiffs' for the appointment of a master, and plaintiffs and the defendant Brotherhood of Locomotive Firemen & Enginemen, hereinafter referred to as "Brotherhood", being present by counsel, and it appearing to the Court that plaintiffs and the Brotherhood have consented to the entry of this decree,

It is ORDERED, ADJUDGED and DECREED:

1. That the rights of the plaintiffs and of all members of the class represented by the plaintiffs have been and are hereby adjudicated and satisfied.

2. That all claims, as set out in the complaint, of any members of said class or of any persons entitled to the benefits of this suit who did not expressly join this action within sixty (60) days after May 2, 1950, as provided in paragraph III F of the judgment herein entered on said date be, and same hereby are, declared barred.

3. That the defendant Brotherhood of Locomotive Firemen and Enginemen, its officers, agents, employees, members and attorneys and all persons in active concert or participation with them be, and they hereby are restrained and enjoined from:

Directly or indirectly requiring or inducing or compelling the Gulf, Mobile & Ohio Railroad to recognize or comply with the provisions of the agreements between the Gulf, Mobile & Ohio Railroad Company and the said Brotherhood, dated July 1947, November 15, 1946, September 19, 1940 and May 1, 1924, and practices thereunder, and of similar agreements applicable to the Tennessee, Alabama and Louisiana Divisions of defendant railroad, and practices thereunder, or with the provisions of any other agreements, understandings or practices between the Gulf, Mobile & Ohio Railroad and the said Brotherhood insofar as any such provision (a) requires said railroad to discriminate against plaintiffs because they are Negroes or because they are so-called "non-promotable" employees, or because they are unable to pass examination for engineers, of (b) fails to grant plaintiffs rights, based upon continuous service, to assignments as firemen on steam locomotives or as helpers on Diesel locomotives so long as white firemen are given such rights. The benefits of Part I of the judgment entered herein May 2, 1950, and of this order shall, and are herewith expressly decreed to accrue only to the individuals named as plaintiffs in Finding of Fact No. 1 made herein on May 2, 1950, and cannot be availed of by any other person or organization.

4. That in all other respects, the original judgment herein, entered May 2, 1950, remain in full force and effect, except as expressly modified by (a) the mandate of the Court of Appeals, and (b) by hereby notifying paragraph III A of said judgment to read as follows:

> "III. It is further ordered that:
>
> A. The defendant Brotherhood cooperate fully in the maintenance of a non-discriminatory system of job assignments applicable to plaintiffs on the railroad and in future negotiations as representative of the craft of

> firemen-helpers. The word 'non-discriminatory', as used in this paragraph, refers to discriminations of the type covered by paragraph II (a) above."

5. That said motion be and same hereby is denied and all costs accrued herein are hereby taxed against said defendant, for which let execution issued as provided by law.

Done and ordered this 29th day of October, 1951.

(s) Seybourn H. Lynne
United States District Judge

A True Copy:

(s) Chas. B. Crow
Clerk, U.S. District Court
Northern District of Alabama

COPY

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DIVISION OF THE
WESTERN DISTRICT OF MISSOURI

A. PHILLIP RANDOLPH, et al.,
Plaintiffs,

v. No. 4211

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, a Missouri corporation, and MISSOURI-KANSAS-TEXAS RAILROAD COMPANY OF TEXAS, a Texas corporation, and R. D. WOOD, ROY ELLIOTT LANG, JOHN WILLIAM DEARING and HOLLIS ORVAL THOMPSON, and BROTHERHOOD OF RAILROAD TRAINMEN,
Defendants.

NOTICE OF APPEAL

Notice is hereby given that R. D. Wood, Roy Elliott Lang, John William Dearing and Hollis Orval Thompson, and Brotherhood of Railroad Trainmen, defendants in the above entitled and numbered cause, hereby appeals to the United States Court of Appeals for the Eighth Circuit, from the final order, judgment and decree entered in this cause on October 26, 1951 by the Honorable Albert L. Reeves, District Judge, granting to the plaintiffs herein, and the members of the class represented by plaintiffs and referred to in said decree, a final injunction against these defendants.

These defendants herewith submit and file with this Notice of Appeal a bond for costs in the sum of $250.00.

Dated this 17th day of November, 1951.

TUCKER, MURPHY, WILSON & SIDDENS

/s/ John Murphy
831 Scarritt Building VIctor 3020
Kansas City, Missouri
Attorneys for Defendants
R. D. Wood, Roy Elliott Lang
John William Dearing, Hollis
Orval Thompson, and Brotherhood
of Railroad Trainmen.

COPY

LAW OFFICES
RAUH AND LEVY
1631 K STREET, NORTHWEST
WASHINGTON 6, D. C.

JOSEPH L. RAUH, JR.
HOWARD R. SACKS

REPUBLIC 7795

November 19, 1951

Mr. B. F. McLaurin
International Field Organizer
Brotherhood of Sleeping Car Porters
217 West 125th Street
New York 27, New York

COPY

Dear Mac:

Thank you for your kind words about the GM&O settlement. Cooper and Black did a wonderful job and I do not believe we can ask them for the $1,000 paid for handling the appeal.

With respect to the Central of Georgia and Georgia Railroad cases, I agree with you that we should inform Johnson that our organization will not assume any additional responsibilities or financial obligations incurred in those two cases because we feel that they should be settled. I also think it would be wise to have him come to Washington to discuss the matter. After that, if we cannot settle the matter with Johnson, then possibly we will have to get the men to revoke his authority. However, that should be a last step.

Enclosed please find proposed Order in the Graham case, which we are going to present to Judge Holtzoff on Wednesday morning. If this Order is signed, notice will be given to the men of the proposed compromise and the final injunction entered in December or January and the $10,000 paid at that time. You will note that the Seaboard is not included in the injunction but the Brotherhood is included as representative of the Seaboard employees. I believe this will give our men on the Seaboard the protection they need.

With all best wishes.

Sincerely yours,

Joseph L. Rauh, Jr.

Enclosure
cc: Mr. A. Philip Randolph
Mr. M. P. Webster

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LEROY GRAHAM, et al.,
Plaintiffs,
v.
SOUTHERN RAILWAY COMPANY, et al.,
Defendants.

CIVIL ACTION NO. 4330-47

ORDER

This cause having come on for hearing on request of all parties other than the Seaboard Air Line Railway Company that this Court approve a compromise settlement of the issues of this litigation as agreed to by said parties through their attorneys and that this Court direct the giving of notice of said compromise settlement pursuant to Rule 23(c) of the Federal Rules of Civil Procedure, and

It appearing to the Court that this is a class action by certain Negro firemen employed by certain southeastern railroads against the Southern Railway Company, the Seaboard Air Line Railway Company, the Atlantic Coast Line Railroad Company, and the Brotherhood of Locomotive Firemen and Enginemen, on their own behalf and on behalf of all of the Negro firemen employed by said railroads, and

It appearing to the Court further that all parties other than the Seaboard Air Line Railway Company have agreed, for the purpose of completely and finally disposing of this litigation as to all parties other than the Seaboard Air Line Railway Company, as follows:

(1) That a permanent injunction be entered restraining and enjoining the defendant Southern Railway Company, the defendant Atlantic Coast Line Railroad Company, the intervening defendant railroad companies and the defendant Brotherhood of Locomotive Firemen and Enginemen as representative of the Negro firemen on said railroad companies and on the Seaboard Air Line Railway Company, their officers, agents and employees, and all persons in active concert or participation with them, from enforcing the Southeastern Carriers' Conference Agreement of February 18, 1941, or any other written or oral agreements, or carrying on any practices under such agreements, which discriminate against plaintiffs or other members of their class in their employment or occupation as firemen on steam locomotives or as helpers on diesel locomotives or from denying to plaintiffs or other members of their class their respective rights to assignments as firemen on steam locomotives or as helpers on diesel locomotives, based upon seniority, because they are Negroes or because they have not been permitted or required to take or pass examinations to qualify as engineers, or from requiring or compelling them to take or pass examinations to qualify as engineers as a condition of their continued employment or continued enjoyment of their seniority rights as firemen on steam locomotives or as helpers on diesel locomotives.

(2) That the defendant Brotherhood of Locomotive Firemen and Enginemen will pay a sum of money for the benefit of plaintiffs and their class as attorneys' fees and reimbursement in part for costs and expenses heretofore incurred in maintaining this litigation.

(3) That, except as provided herein, no damages or other liability to the individual plaintiffs and other members of their class shall be awarded against the defendant Southern

Railway Company, the defendant Atlantic Coast Line Railroad Company, the intervening defendant railroad companies or the defendant Brotherhood of Locomotive Firemen and Enginemen; and

It further appearing to the Court that this litigation has been a long and complex one involving huge expenditures and numerous issues many of which remain unresolved; and

It further appearing to the Court that the attorneys for plaintiffs have represented that this compromise settlement will protect the seniority rights of the plaintiffs and their class against the discrimination described in paragraph (1) hereof and is a fair and reasonable disposition of this litigation in the best interests of plaintiffs and their class, and

It further appearing to the Court that the compromise settlement of the issues of this litigation as agreed upon by the parties through their attorneys, is a fair and reasonable disposition of this litigation in the best interests of plaintiffs and their class,

NOW, THEREFORE, It is ordered, adjudged and decreed:

1. That notice of the compromise settlement of this action, in the form attached to this order, shall be given to all members of the class represented by plaintiffs; and

2. That said notice shall be given by the Southern Railway Company, the Seaboard Air Line Railway Company, the Atlantic Coast Line Railroad Company and the intervening defendant railroad companies by mailing a copy of this order within ten days from the date hereof to all members of the class in their employment at the addresses presently on the books of the employing defendant railroad companies and intervening defendant railroad

companies. Proof of the mailing of said notice shall be established by affidavit of proper officer of each defendant railroad company that said notice was mailed to each of its Negro employees affected on a date to be within ten days of this order as provided in this paragraph 2, to which affidavit shall be attached a copy of said notice and a list of the names and addresses of the employees to whom the notice was mailed.

3. That the final order and judgment embodying the compromise settlement set forth above will be brought on for hearing on the ____ day of December, 1951 before this Court; and

4. Any member of the class represented by plaintiffs not objecting at said hearing to the compromise settlement described above shall be deemed to have consented to said settlement and the terms and conditions of the final order and judgment in all respects as fully as though such member of the class had become an individual party to this suit and shall be forever barred and concluded from hereafter seeking in any court any relief by way of injunction or for damages in respect of the matters determined in this proceeding.

JUSTICE

Consent:

Attorney for Plaintiffs

Attorney for Defendant
Brotherhood of Locomotive Firemen
and Enginemen

Attorney for Defendant
Southern Railway Company and
Intervening Defendants

Attorney for Defendant
Atlantic Coast Line Railroad

Attorney for Defendant
Seaboard Air Line Railway Company

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LEROY GRAHAM, et al., Plaintiffs, v. SOUTHERN RAILWAY COMPANY, et al., Defendants.	CIVIL ACTION NO. 4330-47 ORDER

NOTICE OF COMPROMISE SETTLEMENT PURSUANT TO RULE 23 (c) OF THE FEDERAL RULES OF CIVIL PROCEDURE

TO: ______________________
____
____

Enclosed herewith is a copy of an order in the above captioned case, issued by the United States District Court for the District of Columbia, setting forth a proposed compromise settlement of this case, which will be brought on for hearing on the ______ day of December, 1951, before the said Court.

Your particular attention is called to the provisions of Paragraph 4 of the order reading as follows:

> "Any member of the class represented by plaintiffs not objecting at said hearing to the compromise settlement described above shall be deemed to have consented to said settlement and the terms and conditions of the final order and judgment in all respects as fully as though such member of the class had become an individual party to this suit and shall be forever barred and concluded from hereafter seeking in any court any relief by way of injunction or for damages in respect of the matters determined in this proceeding.

CLIF. LANGSDALE
LAWYER
921-24 SCARRITT BLDG.
TELEPHONE VICTOR 9880
KANSAS CITY, MISSOURI

November 27, 1951

Mr. A. Phillip Randolph
International President
Brotherhood of Sleeping Car Porters
217 W. 125th Street
New York, New York

Re: A. Phillip Randolph, et al. v. Missouri-Kansas-Texas Railroad Co., et al. No. 4211

Dear Mr. Randolph:

I am herewith enclosing copy of Notice of Appeal and copy of Exceptions of Defendants Missouri-Kansas-Texas Railroad Company and Missouri-Kansas-Texas Railroad Company of Texas filed in the above case. Mr. Langsdale is out of the city but will return December 3, at which time he will contact you further.

Sincerely,

Betty Chambers,
secy.

IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE WESTERN DIVISION
OF THE WESTERN DISTRICT OF
MISSOURI

A. PHILLIP RANDOLPH, ET AL.,
Plaintiffs,

v.

No. 4211

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, a Missouri corporation, and MISSOURI-KANSAS-TEXAS RAILROAD COMPANY OF TEXAS, a Texas corporation, and R. D. WOOD, ROY ELLIOTT LANG, JOHN WILLIAM DEARING and HOLLIS ORVAL THOMPSON, and BROTHERHOOD OF RAILROAD TRAINMEN,
Defendants.

NOTICE OF APPEAL BY DEFENDANTS MISSOURI-KANSAS-TEXAS RAILROAD COMPANY AND MISSOURI-KANSAS-TEXAS RAILROAD COMPANY OF TEXAS FROM PORTIONS OF FINAL DECREE MADE AND ENTERED OCTOBER 26, 1951

Notice is hereby given that Missouri-Kansas-Texas Railroad Company and Missouri-Kansas-Texax Railroad Company of Texas, defendants in the above entitled and numbered cause, hereby appeal to the United States Court of Appeals for the Eighth Circuit from, --

(a) the following recitations or findings of fact set forth in the final decree made and entered in said cause on October 26, 1951, to wit:

> "And It Further Appearing that, among other services and benefits of said contract provided for and vouchsafed to the plaintiffs are the following:
>
> "1. Inspect cars and trains and test signal and brake apparatus for the safety of train movements, as per Carrier's rules.
>
> "2. Use hand and lamp signals for the protection and movement of trains and engines,

including the necessary flag protection on the head end of trains, or through block.

"3. Open and close switches and derails for switching and for the movement of trains and engines enroute; around wyes; and at some terminals.

"4. Couple and uncouple cars and engines and the hose and chain attachments thereof, both enroute and at some passenger terminals.

"5. Pick up, set out, place and switch loaded and occupied passenger cars enroute and at some passenger terminals.

"6. Read the Conductor's train orders and familiarize himself with them to determine where opposing trains are to be met or passed, and observe position of all train order signals and see that train orders affecting the movements of trains are picked up enroute.

"And It Further Appearing that the said defendant railroad companies have threatened and are now threatening to abrogate and cancel the said contract of December 3, 1928, with all modifications thereof, and, that, on June 7, 1946, the said railroad companies formally notified the plaintiffs of such purpose", and

(b) the following decretal portions of the final decree made and entered in said cause on October 26, 1951, to-wit:

"It Is Therefore Ordered and Adjudged As Follows:

"That the defendant railroad companies be and they hereby are permanently enjoined and restrained from violating the terms of the contract hereinbefore mentioned and thereby disturbing the status of the plaintiffs under said contract with all modifications thereof, including customs and habits indulged and approved, because of said demands and threats of the Brotherhood of Railroad Trainmen and individual defendants; and the said railroad companies are enjoined from taking from the plaintiffs the performance of the said duties heretofore rendered by them and now being rendered by them, pursuant to the said contract, customs and habits, because of said demands and threats of the Brotherhood of Railroad Trainmen and individual defendants;

* * * * * *

"It Is Further Ordered, Adjudged and Decreed that all costs in this cause be and hereby are taxed against the defendants, jointly and severally, and that execution shall issue for all costs so taxed which have not already been paid by the defendants."

Dated the 21st day of November, 1951.

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY
AND MISSOURI-KANSAS-TEXAS RAILROAD
COMPANY OF TEXAS,
Defendants

IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE WESTERN DIVISION
OF THE WESTERN DISTRICT OF
MISSOURI

A. PHILLIP RANDOLPH, et al.,
Plaintiffs,

v.   No. 4211

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, a Missouri corporation, and MISSOURI-KANSAS-TEXAS RAILROAD COMPANY OF TEXAS, a Texas corporation, and R. D. WOOD, ROY ELLIOTT LANG, JOHN WILLIAM DEARING and HOLLIS ORVAL THOMPSON, and BROTHERHOOD OF RAILROAD TRAINMEN,
Defendants.

EXCEPTIONS OF DEFENDANTS MISSOURI-KANSAS-TEXAS RAILROAD COMPANY AND MISSOURI-KANSAS-TEXAS RAILROAD COMPANY OF TEXAS

Defendants Missouri-Kansas-Texas Railroad Company and Missouri-Kansas-Texas Railroad Company of Texas file the following exceptions to the Court's orders, opinions, memorandums, findings of fact, conclusions of law, and final decree, to-wit:

I.

In the memorandum on the merits of the case, dated September 24, 1951, the Court granted the findings of fact and conclusions of law proposed by the plaintiffs. Those proposed findings and conclusions were filed by plaintiffs on July 3, 1951, and said defendants file the following exceptions thereto, to-wit:

1. Said defendants except to paragraph II of said findings of fact because:

(a) The evidence does not support the finding that train porters have performed the services in controversy "pursuant to custom and contract"; and

(b) The language of said paragraph II implies that train porters have exclusively performed the services in controversy while the evidence shows that those services have been performed intermittently by train porters, conductors, brakemen and other employees of these defendants.

2. Said defendants except to paragraph III of said findings of fact because:

(a) The evidence does not support the finding that prior to March 1921 train porters performed the services in controversy "pursuant to long, uniform, uninterrupted and mutually understood and agreed upon custom";

(b) The evidence does not support the finding that the individual train porters in March 1921 "entered into individual contracts with the then Receiver of the defendant carriers";

(c) The evidence does not support the finding that the alleged contracts with the Receiver "expressly provided that train porters should perform" all of the services in controversy; and

(d) The language of said paragraph III erroneously implies that the alleged contracts of March 1921 gave train porters the exclusive right to perform the services in controversy.

3. Said defendants except to paragraph V of said findings of fact because the findings in that paragraph erroneously imply that the Brotherhood of Railroad Trainmen and its members, by contract, custom and practice, have the right, along with train porters and others, to perform the services in controversy.

4. Said defendants except to the figure "$150,000.00" in paragraph VI of said findings of fact because the evidence shows that such figure should be "$950,000.00."

5. Said defendants except to the figure "$150,000.00" in paragraph VII of said findings of fact because the evidence shows that such figure should be "$950,000.00".

6. Said defendants except to the language: "the railroad defendants *** refused to engage in said arbitration", in paragraph XI of said findings of fact because the evidence shows that the railroad defendants agreed, -

> "to submit to arbitration the question of whether brakemen or train porters, or both of those classes of employees, should be permitted to perform said work along with other employees who are now discharging those duties, including conductors whose Organization, the Order of Railway Conductors, is also a party to the agreement between our Companies and the Brotherhood of Railroad Trainmen, provided, however, that both the Brotherhood of Railroad Trainmen and the Brotherhood of Sleeping Car Porters, Train, Chair Car, Coach Por-

> "ters and Attendants joined in said arbitration agreement and proceedings on behalf of all of the employees whom they respectively represent."

7. Said defendants except to paragraph I of said conclusions of law because:

(a) The all-embracive term "defendants" is used instead of language showing that this conclusion relates to the conduct of defendants other than Missouri-Kansas-Texas Railroad Company and Missouri-Kansas-Texas Railroad Company of Texas; and

(b) The language of this conclusion erroneously implies that train porters, by contract and custom, are entitled to perform the services in controversy.

8. Said defendants except to paragraph II of said conclusions of law because plaintiffs' petition states no cause of action against defendants Missouri-Kansas-Texas Railroad Company of Missouri-Kansas-Texas Railroad Company of Texas.

9. Said defendants except to paragraph III of said conclusions of law because the all-embracive term "defendants" is used instead of language showing that this conclusion relates to the conduct of defendants other than Missouri-Kansas-Texas Railroad Company and Missouri-Kansas-Texas Railroad Company of Texas.

10. Said defendants except to paragraph IV of said conclusions of law because:

(a) The language used erroneously implies that train porters, by contract, custom and practice, are entitled to perform the services in controversy;

(b) This conclusion erroneously states that the services in controversy fall within the following provisions of the contract of December 1, 1928: "Train porters when on duty, will be under the jurisdiction of the conductor and will perform such duties as may be required"; and

(c) This conclusion erroneously states that the contract of December 1, 1928, embraces the services in controversy.

II

In the memorandum on the merits of the case, dated September 24, 1951, the Court gave all findings of fact and conclusions of law previously requested by plaintiffs and "heretofore given".

Requests for those findings and conclusions were filed by plaintiffs on January 27, 1947, and were allowed by an order of the Court dated February 5, 1947. All of them are embraced within plaintiffs' requested findings and conclusions filed July 3, 1951. Said defendants, on February 18, 1947, filed exceptions to those requested findings and conclusions and, in the interest of brevity, those exceptions are now adopted by said defendants and by reference are incorporated herein.

III

In the memorandum on the merits of the case, dated September 24, 1951, the Court made eight findings of fact and one conclusion of law requested by the co-defendants of Missouri-Kansas-Texas Railroad Company and Missouri-Kansas-Texas Railroad Company of Texas. Said defendants except to two of those findings of fact as follows:

1. Said defendants except to paragraph 5 of said findings of fact because:

(a) The evidence does not support the finding that the work in controversy now is and for a great many years past has been work regularly performed by passenger train brakemen; and

(b) The language of this paragraph implies that passenger train brakemen have exclusively performed the work in controversy while the evidence shows that such work has been performed intermittently by train porters, conductors, brakemen, and other employees of said defendants.

2. Said defendants except to paragraph 6 of said findings of fact because the evidence shows that conductors, firemen, and other classes of employees of said defendants, as well as train porters and passenger train brakemen, have performed the work in controversy.

IV

In the memorandum on the merits of the case, dated September 24, 1951, the Court gavetwenty-five findings of fact requested by said defendants but qualified such action by the sentence: "If, however, they should be in conflict with those given for the plaintiffs, then findings of fact given for plaintiffs should prevail."

Said defendants except to said qualification because it is not justified by the record and because each requested finding of fact is fully supported by the evidence.

V

Said defendants except to the refusal of the Court to give each of the following findings of fact and conclusions of law requested by said defendants, to-wit:

FINDINGS OF FACT

"26. Unless enjoined and restrained, the co-defendants of the railroad defendants will file with and prosecute against defendants Missouri-Kansas-Texas Railroad Company and Missouri-Kansas-Texas Railroad Company of Texas a claim for each available brakeman first out on the extra board at the time any train is run on which any of the work in controversy is performed by a train porter, and on the same basis as though such brakeman was used to perform all of the duties of a brakeman on said train, which claims total approximately $514.90 per day.

27. Unless enjoined and restrained, the co-defendants of the railroad defendants will file with and prosecute against defendants Missouri-Kansas-Texas Railroad Company and Missouri-Kansas-Texas Railroad Company of Texas claims for the sums of money specified in Finding of Fact No. 25.

28. The filing and prosecution of said claims by the co-defendants of the railroad defendants would result in a multiplicity of actions which should be enjoined.

29. The filing and prosecution of said claims by the co-defendants of the railroad defendants would cause irreparable injury to defendants Missouri-Kansas-Texas Railroad Company and Missouri-Kansas-Texas Railroad Company of Texas for which neither of them has an adequate remedy at law.

CONCLUSIONS OF LAW

1. Plaintiffs failed to state a claim upon which relief can be granted against the railroad defendants and plaintiffs neither pleaded nor proved a cause of action against the railroad defendants.

17. Plaintiffs should be denied all relief against the railroad defendants.

19. The filing and prosecution of said claims by the co-defendants of the railroad defendants would cause irreparable injury to defendants Missouri-Kansas-Texas Railroad Company and Missouri-Kansas-Texas Railroad Company of Texas for which neither of them has an adequate remedy at law.

VI

The final decree made and entered October 26, 1951, contains the following recitation or finding of fact, to-wit:

> "And It Further Appearing that, among other services and benefits of said contract provided for and vouchsafed to the plaintiffs are the following:
>
> "1. Inspect cars and trains and test signal and brake apparatus for the safety of train movements, as per Carrier's rules.
>
> "2. Use hand and lamp signals for the protection and movement of trains and engines, including the necessary flag protection on the head end of trains, or through block.
>
> "3. Open and close switches and derails for switching and for the movement of trains and engines enroute; around wyes; and at some terminals.
>
> "4. Couple and uncouple cars and engines and the hose and chain attachments thereof, both enroute and at some passenger terminals.
>
> "5. Pick up, set out, place and switch loaded and occupied passenger cars enroute and at some passenger terminals.
>
> "6. Read the Conductor's train order and familiarize himself with them to determine where opposing trains are to be met or passed, and observe position of all train order signals and see that train orders affecting the movement of trains are picked up enroute."

Said defendants except to said recitation or finding because it erroneously states, in effect, that plaintiffs are entitled to the specified work by virtue of their contract with said defendants, and because said recitation or finding erroneously implies that train porters have the exclusive right to perform said work while the evidence shows that such work has been performed intermittently by train porters, conductors, brakemen, and other employees of said defendants.

VII

The final decree made and entered October 26, 1951, contains the following recitation or finding of fact, to-wit:

> "And It Further Appearing that the said defendant railroad companies have threatened and are now threatening to abrogate and cancel the said contract of December 3, 1928, with all modifications thereof, and, that on June 7, 1946, the said railroad companies formally notified the plaintiffs of such purpose."

Said defendants except to said recitation or finding because the evidence shows that said defendants first gave notice to plaintiffs by letter dated April 15, 1946, and that said defendants, in said letter of June 7, 1946, stated that they,

> "are willing to negotiate a new agreement with the Brotherhood of Sleeping Car Porters covering rates of pay, rules, and working conditions for train porters, which agreement will exclude work sometimes performed by trainmen such as inspecting cars and

> "trains, testing signal and brake apparatus, using hand and lamp signals for the protection and movement of trains, flagging, opening and closing switches for the movement of trains, coupling and uncoupling cars and engines, and switching passenger cars."

VIII

The final decree made and entered October 26, 1951, contains the following injunction against said defendants, to-wit:

> "It is Therefore Ordered and Adjudged as follows:
>
> "That the defendant railroad companies be and they hereby are permanently enjoined and restrained from violating the terms of the contract hereinbefore mentioned and thereby disturbing the status of the plaintiffs under said contract with all modifications thereof, including customs and habits indulged and approved, because of said demands and threats of the Brotherhood of Railroad Trainmen and individual defendants; and the said railroad companies are enjoined from taking from the plaintiffs the performance of the said duties heretofore rendered by them and now being rendered by them, pursuant to the said contract, customs and habits, because of said demands and threats of the Brotherhood of Railroad Trainmen and individual defendants;"

Said defendants except to said portion of said final decree because said injunction against said defendants is not warranted by the pleadings or the law or the evidence in the case.

IX

The final decree made and entered October 26, 1951, taxes the costs as follows:

> "It Is Further Ordered, Adjudged and Decreed that all costs in this cause be and hereby are taxed against the defendants, jointly and severally, and that execution shall issue for all costs so taxed which have not already been paid by the defendants."

Said defendants except to said portion of said final decree because said defendants should not be taxed with any costs except possibly one-half of the costs incurred in connection with the second appeal in this case.

Respectfully submitted,

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY
AND MISSOURI-KANSAS-TEXAS RAILROAD
COMPANY OF TEXAS,
Defendants.

JOHNSON AND JONES
Attorneys at Law
301-302 Grand Building
Macon, Georgia

December 4, 1951

Mr. B. F. McLaurin
Brotherhood of Sleeping Car Porters
217 West 125th Street
New York 27, New York

Dear Mr. McLaurin:

I have your letter of November 30, and I thank you for your expression of interest in the unfortunate experience I had with Sheriff Carlus Gay. I recognize this difficulty as the death struggle of the extreme reaction that has held sway in the South for so many years.

I partly answered your letter on the telephone yesterday.

I am sending you herewith a copy of the decision in Clay vs. Central of Georgia. I am sure that if any Court ever takes time to consider this case, we can get a favorable decision. It seems to me that the record is clear, but the trial before Judge Scarlett was a farce, and the Circuit Court affirmed it.

We can discuss this case further when we meet in Washington.

Sincerely yours,

JOHNSON AND JONES

Thos. W. Johnson

TWJ:ljs

cc: Mr. Rauh
Mr. Randolph
Mr. Patterson
Mr. Webster

ASA PHILIP RANDOLPH

SUBJECT FILE BROTHERHOOD OF SLEEPING CAR PORTERS:

Legal Papers

Railway Labor Disputes And Settlements

1959-60

(2)

PULLMAN SYSTEM GENERAL COMMITTEE

ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN

Rooms 203-204, 10 East Huron Street, CHICAGO 11, ILLINOIS

J. A. PADDOCK, President
L. J. WAGNER, Senior Vice-President
C. H. ANDERSON, Gen. Sec'y. & Treas.
. . . .
R. O. HUGHES, President-Emeritus
Elmwood, Wisconsin

A. G. WISE
General Chairman

September 1, 1959

Mr. A. Philip Randolph, International President
Brotherhood of Sleeping Car Porters
217 West 125th Street, Room 301
New York 27, N. Y.

Dear Sir and Brother:

Your letter of August 26 is greatly appreciated. Although, it is my understanding that the President has submitted the name of Mr. Herring, an attorney from Iowa whose father was former governor and U. S. senator, to fill the vacancy on the Commission and that the Senate has already confirmed him. However, an administrative assistant to the President has advised that should another vacancy occur, my name will be given consideration.

For your information, I am enclosing a copy of the brief that we submitted to Special Board No. 298 with Mr. Francis J. Robertson sitting as neutral. It will be observed that this brief is written in the form of a report. This was done at the request of Mr. Robertson. My purpose in sending you this brief is with the hope that the information in it may be beneficial to you. Up to this writing, we have had no report from Mr. Robertson. When we get a report, I will advise you.

Fraternally yours,

A. G. Wise

A. G. Wise

Enclosure

SEP 4 REC'D

NEW YORK CENTRAL -- ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN

SLEEPING CAR CONDUCTORS CASE

BEFORE

A SPECIAL BOARD OF ADJUSTMENT

Francis J. Robertson, Referee

July, 1959

PROPOSED REPORT AND RECOMMENDATIONS

SUBMITTED BY

THE ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN

Harry Wilmarth, Counsel
Cedar Rapids, Iowa

NEW YORK CENTRAL -- ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN

SLEEPING CAR CONDUCTORS CASE

BEFORE

A SPECIAL BOARD OF ADJUSTMENT

July, 1959

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Introductory Statement

Prior to 1958, sleeping car service on practically all railways throughout the United States was conducted by a joint arrangement between the railroads and the Pullman Company. In January, 1958, the New York Central System announced that it intended to discontinue its arrangements with the Pullman Company, and that effective July 1, 1958, the railroad alone would operate its sleeping car service on its lines. A few operations which were joint with other railways were continued with Pullman, and are not concerned here; on all other sleeping car service, the New York Central's action went into effect as announced on July 1, 1958.

The change in operations resulted in loss of jobs by 95 regular Pullman conductors and 27 extra conductors who had formerly operated in sleeping car service on the lines of the New York Central. The majority of these men were more than 50 years of age, had worked many years on this railroad and were unable, because of their age, to find other employment. The work they had been performing was consolidated with that performed by train conductors on the New York Central, and some 30 train conductors were added as helper conductors to assist in handling the increased duties.

This dispute arose by reason of the loss of employment by Pullman conductors and because of the additional duties required of train conductors. On most major railroads, including the New York Central, train conductors are represented by the Order of Railway Conductors and Brakemen, a standard railway labor organization.

The O.R.C. and B. also represents Pullman conductors employed by the Pullman Company.

No agreement was reached during negotiations and mediation, and the National Mediation Board, under date of April 8, 1959, proposed by letter to the parties that the dispute be submitted to a disinterested person for recommendations after a full inquiry "to the end that a basis might be found for amicable disposition of all outstanding issues." This letter in pertinent part reads as follows:

> "The full Board has carefully reviewed the issues in the dispute and is firmly convinced that a resolution can be found by means of an impartial investigation by a disinterested person who would be provided adequate and complete data on the background, operational facts, and other problems that have arisen in the dispute to the end that a basis may be found for amicable disposition of all outstanding issues.
>
> "The National Mediation Board hereby proposes that all issues raised in this case be submitted, after the presentation of written or oral proof, to a neutral person to be agreed upon; and after due consideration such neutral person shall make recommendations to the parties. In the event the parties are unable to agree upon a neutral to consider the dispute, he will be named by the National Mediation Board and his compensation and expenses defrayed by the National Mediation Board. The neutral person shall not have the right to adjudicate any of the issues presented but it is understood that his recommendations will be used as a basis for reaching an understanding to adjust the dispute."

Representatives of both parties accepted and signed the proposal of National Mediation Board and this Board is functioning pursuant to their agreement as set forth above.

Upon the failure of the parties to agree on a neutral, the National Mediation Board appointed Francis J. Robertson, Washington, D. C. Hearings were commenced in Washington on July 13, 1959 and were held for a total of 10 days between that date and July 27, 1959. The record of the proceedings consists of 1074 pages of testimony and argument and includes numerous exhibits. In addition, a number of documents which were public or otherwise available to the parties were submitted or called to the attention of the Board, although not formally identified by exhibit number.

At the conclusion of the hearings, the neutral met with the parties jointly and separately in an effort to bring about a settlement of the dispute by mutual agreement. These efforts were not successful.

The Issues

Shortly after the announcement of the change in operations the O.R.C. and B. contacted representatives of the New York Central Railroad with the request that the displaced Pullman conductors be taken over by the railroad for the performance of their usual duties or that they otherwise be made whole. The railroad refused. Further conferences were held without any settlement of the controversy being reached.

Under date of June 16, 1958, the O.R.C. and B. wrote the following letter to the New York Central Railroad:

> "Pursuant to our letter to you of May 26, 1958, conference was held with you on June 6, 1958. At this conference we stated to you that it had long been our policy in the railroad industry that when one company took over the operations, or portions thereof, of another company, that the men involved should follow their work and continue to perform the duties customarily performed by them.

> "Notwithstanding the unequivocal statements made to you on June 6, we are informed that under date of June 11, 1958, your company issued directions which, if made effective, will result in transfer of the work of pullman or sleeping car conductors to other crafts and classes on the New York Central Railroad System. We believe our position has been made clear to you, but in any event this letter will restate it again and will advise you that unless an agreement relating to this matter is reached with this organization prior to July 1, 1958, this organization will take whatever action is necessary to bring about such an agreement."

A further conference was held between the parties on June 24, 1958. No settlement having been reached, the Organization called for a withdrawal from the service of train conductors on the New York Central Lines East, and Boston and Albany district, to be effective 12:01 A.M. July 1, 1958.

Prior to the effective date of the strike, the New York Central obtained a temporary restraining order in the United States District Court for the Southern District of New York. At the hearings the Court persuaded the parties to re-open negotiations on the basis of an agreed upon notice dictated by the Court and with the stipulation that the Railroad would dismiss its pending motion for a preliminary injunction, and all legal proceedings in connection therewith, and that the Union would withdraw its strike notice. The court dictated into the record in those proceedings the agreed upon notice and stipulation of the parties as follows:

> "The Court has conferred with attorneys for both sides and with lay representatives of both sides. The parties have agreed to negotiate under the Railway Labor Act regarding the disputes which have arisen between them by reason of the change in sleeping car service on the New York Central System.

> "In view of the agreement to negotiate, the New York Central has discontinued its proceedings for an injunction and the union has withdrawn its strike notice.
>
> "The union has sent the following notice:
> 'Notice Pursuant to Section 156
> United States Code Title 45
> To: The New York Central System.
> From: The Seven General Committees of Adjustment
> of the Order of Railway Conductors and
> Brakemen on The New York Central System.
>
> "Written notice is hereby given to you of an intended change in the existing collective bargaining agreements affecting rates of pay, rules, and working conditions of train conductors in the light of the proposals announced by you with particular reference to the assumption of sleeping car duties by train conductors.
>
> "It is our understanding, confirmed by you before United States District Judge William B. Herlands, that negotiations will commence with regard to the foregoing matters within 48 hours after receipt by you of a schedule of topics to be discussed and negotiated.
>
> "'We hereby stipulate that the strike authorization heretofore called for July 1st, 1958 is hereby withdrawn without prejudice.'..."

The foregoing notice, agreed to by the parties under the auspices of the Court, was sent to the railroad on July 10, 1958. Under date of July 16, 1958, the General Chairman of the O.R.C. and B. on the New York Central System sent the following wire to Mr. Leo B. Fee, Vice President, Employee Relations:

> "The following is the initial schedule of topics to be discussed and negotiated pursuant to notice and agreement before the U. S. District Court in Case No. 135-124: (A) When a train carries one or more sleeping cars an additional train conductor shall be assigned to perform the duties formerly performed by sleeping car conductors (B) the rate of pay for conductors assigned in accordance with Item A will be the same as the passenger conductor rate (C) all other provisions in the existing agreement will apply to conductors

> assigned in accordance with Item A. Suggest conference your office 10:00 AM Friday 18th. Please advise if this meets with your concurrence."

The position of the Organization is that the train conductor is entitled to additional help on trains carrying sleeping cars. It points to the fact that sleeping cars involve many problems beyond picking up the sleeping car tickets along with the first class fares. A train may carry a hundred or more sleeping car passengers. Some passengers may desire changes in accommodations which involve time-plus computation and collection of the various rates for different types of space. Duplicate sales of the same space are sometimes made and must be rearranged. Some passengers board the train without tickets and sales must be made by the conductor on the train. These cash sales have markedly increased with the closing of agency stations. The additional problems and responsibilities arising from these cash sales and the assignment of space in sleeping cars have been put on the train conductor and, at the same time, he has been deprived of the assistance of the Pullman conductor in the performance of his customary duties. The Pullman conductor supervised the porters, arranged for the guarding of cars at night by porters, quelled disturbances unless so serious as to require the attention of the train conductor, attended to the operation of cooling and heating of the sleeping equipment, and otherwise devoted his entire attention to the needs of first class passengers occupying space in sleeping cars. The Pullman conductor, the Organization states, has also further assisted the train conductor in the collection of train transportation.

Usually it is the practice, the Organization says, for the Pullman conductor to collect both the sleeping car ticket and the first class ticket from passengers that board the train at night at times when the train conductor is engaged elsewhere in the train. Also the Pullman conductor "blocks off" for the train conductor at station stops so as to collect transportation from passengers moving through the train while the train conductor is on the platform. This avoids the necessity of the train conductor re-working all cars after a station stop in order to collect all tickets.

Since the New York Central took over the operation of its sleeping cars and the sleeping car conductors were displaced, the work and responsibilities of the train conductors have substantially increased. Train conductors are in charge of the train and all employees on it. They are responsible for operation enroute and their first concern must be safety, the observance of all operating rules and instructions by others in the crew, and the anticipation and correction of mechanical failures. Train conductors are subject to reprimand, discipline, or discharge if others in the crew fail in the performance of their duties. Consequently, the Organization says, it is not fair to hold the train conductor to this high degree of responsibility and at the same time not only deprive him of the assistance of a sleeping car conductor but also impose all of the responsibilities of sleeping car passengers on him.

The Organization states that the foregoing problems of the train conductor would be solved by replacing the assistance he has had heretofore and by relieving him of the additional duties and responsibilities imposed on him. This would be accomplished, the Organization states, by employment of another train conductor or by employment of the Pullman conductors displaced by the change in operations. The Organization states frankly that its objective is two-fold, that is, to provide relief to the train conductor and to provide employment to the Pullman conductors whose jobs were lost. It contends that the relationship of the carrier to the Pullman conductors in service on its lines was such that the carrier, in fairness and equity, had a direct responsibility to them; in the light of their long service for the New York Central, they should not now simply be cast aside without some provision for their welfare, particularly since many of them could not expect to find other work.

The carrier resists the proposal of the Organization on the ground that it has provided adequate relief for the train conductor. It states that it has always provided additional helper train conductors on passenger trains whenever necessary and that approximately thirty additional helper (train) conductors, in addition to the regular conductor, have been assigned to its passenger trains since the change in sleeping car operations on July 1, 1958. It states that since the change it has also intermittently added other helper (train) conductors from the extra list as occasion may require. The carrier, therefore, contended that it had provided additional assistance to train conductors wherever necessary in its opinion. It also contended that -- insofar as the Organization sought to provide such assistance by forcing employment of the displaced Pullman conductors it constituted an attempt by the Organization to create and perpetuate "a new and separate craft of employees" not theretofore employed by the carrier.

Economic Effects

The New York Central stated that its action was dictated by economic circumstances -- as a part of an overall effort to improve its passenger service financial results. It called attention to the recent I.C.C. findings with reference to "Passenger Deficits, Docket No. 31954, I.C.C." These findings emphasized the seriousness of the railways' problems in overcoming certain unprofitable aspects of passenger service throughout the nation. The situation of the New York Central in this respect was especially critical. It had lost over $50 millions in passenger operations in the year 1957 and over $30 millions in 1958. These circumstances, it was said, made it essential that the New York Central review its entire passenger operation and make economies wherever possible. Among the projects which followed was the taking over of sleeping car operations from the Pullman Company.

No evidence was presented by the carrier to demonstrate precisely the savings it accomplished by operating its own sleeping cars. It was stated generally, however, that the railroad has realized a reduction in its costs of handling such service from the level of costs accruing to it under its contract with Pullman. Some part of this saving certainly represents wages of Pullman conductors who have been displaced from their jobs.

The Organization submitted information showing the effect on the displaced Pullman conductors. In all, 95 regular conductors and 27 extra-board conductors were displaced. Thirty-six of the conductors had 25 or more years of service; 49 had from 20 to 25 years of service; 24 had from 15 to 20 years; and only 13 had less than 15 years of service. Most of this service was performed on the New York Central.

A survey of the affected Pullman conductors was made by the O.R.C. and B. and submitted in summary form in the proceedings. It showed that most of the employees were over fifty years of age, and consequently had had no success, or very limited success, in finding outside employment after they were laid off. Those who were successful in getting work usually had to accept menial jobs or jobs of very low skill and with low pay. Most of the conductors were married; many of them had additional dependents. The survey indicated that a number of the men and their families were in serious economic circumstances. Some had been forced to sell their homes; others had moved to other locations in order to find work; some had been forced to discontinue educational arrangements for their children; many of them had found it necessary to borrow heavily to continue to meet their obligations and living expenses.

A few of the men were old enough to be eligible for retirement under the Railroad Retirement, and at least one had actually applied for retirement. Almost all of them had received unemployment insurance payments for at least part of the year since July 1, 1958 when the New York Central action became effective. Under recently adopted amendments to the Railroad Unemployment Insurance Act, increased and extended benefits are now available to employees with longer service in the industry, and many of the conductors have become qualified for additional benefit payments starting July 1, 1959. But it appeared that unemployment benefits, however liberal, were only a temporary remedy and were intended essentially to apply to short layoffs in business recessions. These benefits do not meet the needs of workers who are permanently displaced from their employment as is the case of these Pullman conductors.

Procedural Objections

The New York Central has contended in this proceeding that this Board should confine its recommendations solely to train conductors and should give no consideration to the problem of the Pullman conductors displaced by the change in operations. In support of its position the New York Central takes several alternative positions which may be summarized as follows:

(1) That the displaced Pullman conductors were not employees of the New York Central, have no right to bargain with the railroad, and it owes them no legal or contractual obligation.

(2) That in any event the issues concerning displaced Pullman conductors were not included in the section 6 notice.

(3) That the Pullman conductors were employed by the Pullman Company, and, it is suggested, if they have any remedy it should be sought through a notice on the Pullman Company pursuant to section 6 of the Railway Labor Act.

(4) That the imposition on the New York Central of any burden connected with the displaced Pullman conductors would conflict with the 1945 anti-trust decree to which reference will be made at a later point in this report.

This Board has carefully considered the contentions of the carrier. Under the circumstances of this case it does not believe that it should eliminate consideration of the displaced Pullman conductors on technical grounds without an appraisal of the merits of their situation. This Board is not a court. It will make no decisions in this case, legal or otherwise. Its duty is to conduct a full inquiry and make such recommendations to the parties as appear fair in the circumstances. These recommendations will not be binding on the parties but will be made in the hope of assisting the parties in reaching a settlement and termination of their labor dispute. Disposal of a portion of the dispute on purely technical grounds is not likely to settle it if equities exist which go unrecognized.

There are further reasons for the conclusion that this matter should not be narrowed solely to train conductors and consideration of the displaced Pullman conductors be eliminated on one or more of the technical grounds urged by the carrier. These reasons will now only be summarized and will be developed more fully in succeeding portions of this report.

First, even if it be assumed that the New York Central owes no legal or contractual obligation to the Pullman conductors displaced by its change in operations there nevertheless do exist equities in their favor which should not lightly be dismissed from the consideration of a Board seeking a fair solution of the problems involved in this dispute. These equities arise by reason of their age of service and because of historical developments and relationships between the railroads, the Pullman Company, and the employees.

Secondly, the Pullman Company is a wholly owned joint agency of the major railroads of the United States. This record indicates that relief for the displaced Pullman conductors from Pullman may not be wholly effective or fair as between the railroads and that if any relief is to be afforded these conductors, it probably must be sought from the New York Central. Thirdly, while Pullman conductors have ordinarily bargained only with Pullman in the customary areas of wages, rules and working conditions there is undisputed evidence of record that the railroads themselves have heretofore held out to their organization the suggestion that it deal directly with the railroads for both Pullman and train conductors in the extraordinary circumstances of a change of operations of this precise nature.

Finally, and perhaps most important of all, this Board should not abdicate or avoid any of the duties committed to it. The National Mediation Board urged and the parties accepted a directive to this Board which in sweeping and all-inclusive terms directs the Board to investigate "the background, operational facts, and other problems that have arisen in the dispute" as a basis for recommending an amicable disposition of "all outstanding

standing issues." This directive is not hedged by any restrictions as to the scope of the inquiry or the subject matter of the recommendations. It is not conceivable that either the National Mediation Board or the parties intended that this Board perform a useless act, that is, conduct a broad inquiry into all of the background, operations and problems of this dispute yet narrow its recommendations solely to train conductors.

Relationships Between Railroads, Pullman and Employees

The facts regarding the operation of sleeping car service by United States railroads in conjunction with the Pullman Company are undisputed.

Sleeping car service in United States railroads has generally been carried on as a joint operation of the railroads and the Pullman Company. Prior to 1940 the stock of Pullman was independently owned. In 1940 the government charged the Company with violation of the anti-trust laws and upon conviction the stock of the Company was sold to the major railroads of the United States which have operated the Company since that time as a wholly owned joint facility of the railroads. The New York Central now owns approximately 15% of the stock. The history of the anti-trust litigation is reported in Employees' Exhibit 1, pages 1 - 9.

So far as railroad-Pullman joint operations are concerned there is no substantial difference in the contractual arrangements between the two periods. Under the present operating contract in force between the railroads and Pullman, all operating responsibility is in the hands of the railroads. They determine where, when, and how many sleeping cars are to be operated. In addition, the railroads sell Pullman tickets and perform numerous mechanical services in the servicing and operations of the cars. On its part Pullman furnishes the cars (the modern light weight cars being owned by the railroads leased back to Pullman), provides employees for the collection of fares and the furnishing and supervision of the service, the employees being subject to the supervision of the railroad while on the train.

The operating contracts between Pullman and the railroads provide detailed accounting procedures which in general may be described as a sharing of profits or losses of sleeping car operations after payment of operating expenses. Insofar as possible the operating expenses, including the wages of Pullman conductors, are allocated to each railroad in proportion to amount of sleeping car service on its lines. Under the uniform system of accounts for railroad companies prescribed by the Interstate Commerce Commission, the railroad is required to report the cost of operating sleeping car service on its lines. Thus, the railroads report, among other expenses, the pay of Pullman conductors employed on sleeping cars.

Income from Pullman sleeping car operations is precisely allocated to each railroad on which it arose. If, after deduction of the expenses a profit remains, the railroad takes 75% and the balance goes to Pullman. If a loss is incurred, provision is made for payment of the deficiency by the railroad to Pullman.

It is agreed that the present arrangements between the railroads and the Pullman Company are substantially the same as those in existence prior to 1940, varying only in details as to the division of profits and losses. In the proceedings before the Interstate Commerce Commission in reference to the application of the railroads for approval of their pooling arrangements, a Vice President of the New York Central Railroad described the railroad-Pullman sleeping car contracts as they had existed prior to that time and, after setting forth the various services performed by the railroads and Pullman stated:

> "This recital does not include all of the various services which each of the parties agreed to perform for their mutual benefit. However, enough of them have been mentioned to reveal the intimate and intricate nature of the relationship between Pullman and the railroads in the joint rendition of this service. As will be readily seen, the accounting arrangements, and the provisions for the appropriate distribution between the parties of any liability incurred to employees and members of the public require a continuing business relationship as intimate in many ways as a common law partnership." (Emphasis supplied)

The railroads have stated that the sleeping car business under its arrangements with Pullman is "an integral part of the railroads' passenger transportation service and is not a separate and independent business disconnected from railroad transportation."

This railroad view was expressed by a railroad officer in another way in the following testimony before the Interstate Commerce Commission in 1947:

> "The Southern Pacific and all railroads that are operating both sleeping cars and coach traffic are after the entire transportation market. And there isn't any more competition between a sleeping car and a coach then there is between a drawing room and a lower berth.

> A person who wants to spend the money for a drawing room is very welcome. We afford the facility. If he wants to ride in a coach because it costs less, we provide the facility, and we are glad to get his patronage."

It is clear that the New York Central had been engaged in the sleeping car business for many years. Its arrangements with Pullman were, as stated by the railroads, in the nature of a partnership. The New York Central did not enter a new business on July 1, 1958. It discontinued its joint operations with Pullman but it continued the sleeping car business in which it had long been engaged. These facts are not in dispute in this proceeding.

Relationship of Pullman Conductors to Railroads

While the displaced Pullman conductors were on the payroll of the Pullman Company, their wages were, in fact, charged to the New York Central. The railroad supervised these Pullman conductors while on its trains, and its operating contract with Pullman provided that insofar as applicable they were subject to the rules of the railroad company.

Likewise the instructions of the Pullman Company to Pullman conductors provided that while they were on the train they were subject to the instructions of the train conductor.

If, as the railroads say, sleeping car operations for years past have been "a joint rendition of service" as between the railroads and Pullman, in the nature of a partnership, it is likewise clear that Pullman conductors have operated in such service over the years not solely for the benefit of Pullman but also for the benefit of the railroads. The railroads supervised and directed the Pullman conductor on the train. He collected tickets for sleeping car transportation which were sold by the railroad and the revenue of which was solely allocated to the railroad for payment of expenses including the wage of the Pullman conductor. He worked in railroad service and while nominally he was employed by Pullman, he nevertheless held an intimate relationship with the railroad on whose lines he served. In many respects he had relations to the railroad comparable to those of an employee. In fact, the Railway Labor Act, in Section 1, Fifth, defines an employee as including "every person in the service of a carrier (subject to its continuing authority to supervise and direct the manner of rendition of his service) who performs any work defined as that of an employee ***" by the Interstate Commerce Commission. And, in circumstances of corporate relationships similar to this, the I.C.C. has held that the employees on the payroll of one corporation may also claim an employment relationship with the railroad on which they perform service under its direction. See Report of Interstate Commerce Commission, Ex Parte 72, decided December 7, 1938, (231 I.C.C. 91-99)

The foregoing discussion is not designed to lead to a legal conclusion that Pullman conductors are employees of both the Pullman Company and the railroads. For purposes of this proceeding, it will be assumed that their technical legal status is solely an employment relationship with Pullman. This Board, however, is seeking a fair and equitable solution; it is not acting as a court to make a legal determination. If its functions are in any way comparable to a court, it may be observed that a court of equity will afford relief on principles of fairness and equity. Certainly this Board must take into account the factual relationship of the Pullman conductors in the New York Central Railroad sleeping car service over the years as bearing on the equity of their situation.

The facts show that these displaced conductors had worked most of their working lifetime on the lines of the New York Central. They collected tickets sold by the New York Central, the income from which the railroad had a large participation. They were supervised by the railroad while enroute. Their wages were paid by the railroad through Pullman. They were performing service as a part of the railroad's transportation business. They were, in a very real sense, a part of the family of employees engaged in the conduct of the passenger service provided by the New York Central to the traveling public. In these circumstances, fairness required some consideration of these men in any determination of the railroad to make such a change in operating methods as to throw them out of the employment in which they had spent most of their working years in the conduct of New York Central passenger service. It is not fair that these men and their families be forced to bear the entire loss in a change of operations for the benefit of the railroad. Any different conclusion would mean that all the railroads could abandon the joint facility of Pullman without thought of the employees and with only the corporate shell left to them. So long as the service is continued, fairness calls for some consideration to these employees whether the railroads withdraw one at a time or simultaneously.

Past Recognition of the Problem by the Railroads And by the Organization

For some years prior to the anti-trust litigation in the early 1940's most sleeping car service was operated in conjunction with the Pullman Company under the arrangements described in the preceeding section of the report. A few railroads, of which the Milwaukee is a notable example, operated their own sleeping cars with their own employees including a craft of sleeping car conductors in addition to the train conductor.

It was, of course, always possible for any railroad to buy sleeping cars and operate them without Pullman, but it was considered not economically feasible in view of the investment required, the fact that most railroads could not afford to maintain a pool of idle cars for peak seasonal needs, and the fact that the railroads already had made a large investment in the cars operated by Pullman.

When the railroad group purchased the stock of the Pullman Company, in the course of the anti-trust litigation and also purchased the modern light weight cars owned by Pullman, there was discussion that the Pullman Company might be reduced only to a service company, or later sold, and that some railroads might desire to sever their arrangements with Pullman and operate their own sleeping car service. The anti-trust decree specifically guaranteed:

> "The right of any railroad which wishes to operate all or a portion of its own sleeping car business to do so, regardless of existing sleeping-car contracts with The Pullman Company."

By reason of concern over possible loss of employment to Pullman conductors their Organization intervened in the anti-trust proceedings relating to the sale of the Pullman Company with the request that the federal court attach conditions to the sale protective of Pullman conductors. In the course of these proceedings, the railroads conferred directly with the Organization and it in turn indicated to the court its approval of the railroads as among the prospective purchasers of the Pullman Company. In indicating its approval, the attorney for the Organization stated to the court:

> "Mr. John Dickinson, Mr. Horning, Vice President of the New York Central Lines, and Mr. Hoglund, Vice President of the Burlington, have assured us in behalf of the railroad group that the Pullman employees will be continued under the conditions of their present employment contracts and will not be affected detrimentally if the railroads become the purchaser of this property."

It is conceded that these statements were made by the railroads together with other assurances that the Pullman conductors would not be affected by the proceedings. The Organization does not seek to enforce these assurances as a contractual obligation but does contend that they indicate the railroads' recognition of their responsibilities to Pullman conductors who might be affected by changes in operating methods which were at that time under consideration by the railroads.

The federal court refused to include protective conditions in its decree on the ground that it was solely involved in anti-trust litigation and not in labor matters but it did provide in its decree that:

> "This Order is made without prejudice to the rights of the employees of the Pullman Company under existing contracts and practices."

In further discussions the court made it plain that in the event some railroad decided to take over its own sleeping car service there was nothing in the decree which prevented the Organizations from bargaining for employment of the displaced Pullman conductors by the railroad. In response to the Organization's fear that some of the railroads might discontinue Pullman service and displace Pullman conductors on their lines one of the members of the court said:

> "You represent the railroad conductors and the Pullman conductors. Now, presumably, if what you say is going to happen, a railroad, for instance, like the Pennsylvania, decided to pull out of the Pullman service and operate their own sleeping car service with their own personnel independently of anybody else, suppose they said they were going to do that, they certainly would have to provide the service which Pullman conductors now perform. The way the railroads operate, it is quite obvious they would have to have a conductor on the train to look after it, in addition to the railroad conductor, who gets off at every little point. That means, doesn't it, that some other conductors would take up the slack which your Pullman men dropped. If it was done that way, and they would be your men too. They would be your own organization, and it would be a jurisdictional matter, which it seems to me your organization clearly is in a position to negotiate. You represent the railroad conductors; you represent the Pullman conductors; you have contract with the railroads and with the Pullman company. Now, why couldn't your organization decide whether Pullman men should not get a break in that direction? Isn't that a negotiating and bargaining matter that you are in a peculiarly favorable position to take up yourself without the Court's assistance or the Interstate Commerce Commission's assistance, since your organization covers the whole group, the ones who will take up the work and the ones that will be displaced? They are all brothers together in the same order."

The foregoing statement of the court is set out in full here because it clearly shows that the court did not see any lack of harmony with its decree if the Organization bargained with a railroad for employment of Pullman conductors displaced as a result of a change of operations of that precise kind. The decree was directed at the Pullman Company and not to its employees or the Organizations representing them.

The Organization also observes that the railroads had been dealing directly with it concerning the future of Pullman conductors and that the attorney for the railroads not only took no exception to the suggestions of the court, but promptly indicated their approval.

It is undisputed that heretofore the railroads have themselves suggested that in the event a railroad terminated its arrangements with Pullman, the matter of employment of the displaced Pullman conductors should be one for negotiation between the terminating railroad and the Organizations representing Pullman conductors and train conductors. In this connection, the only problem suggested by the railroads was the relatively rare one of a railroad on which train conductors were not represented by the O.R.C. and B. In this situation, a fear of conflicting contentions from other Organizations was expressed by the carriers.

Two practical reasons for direct negotiations with the railroad rather than Pullman are apparent on this record and doubtless in the mind of everyone. First, the railroad will continue the sleeping car service and will have available the work ordinarily performed by Pullman conductors. Secondly, under railroad ownership and their accounting arrangements with Pullman, a railroad which terminates these arrangements would no longer be assessed with any portion of the expenses of Pullman. These will be borne only by the remaining railroads including the expense of any dismissal allowance for Pullman conductors losing jobs as a result of a termination. Other railroads would, with some obvious justification, strenuously object to assuming any financial burden for Pullman conductors who, for example, had worked many years on the lines of the New York Central and had been displaced by the action of that railroad. These reasons indicate why the problem of employee protection in the situation involved here has always been discussed by the railroads themselves in terms of negotiation between the Organizations representing Pullman and train conductors and the terminating railroad which creates the problem by its change in operations. The railroads therefore have suggested that such negotiations would not present a problem in most instances since on most railroads the same Organization, that is the O.R.C. and B., represents both the Pullman conductors and the train conductors and that it might only present a problem where some other Organization represented train conductors.

Accordingly, in proceedings before the Interstate Commerce Commission in 1947, wherein the Organization had requested that protective conditions be imposed in the order approving the pooling arrangement, Mr. Jacob Aronson, Vice President and General Counsel of the New York Central Railroad, who was representing the railroad buying group, suggested to the Commission that the O.R.C. and B. should bargain for employment of Pullman conductors displaced by a change in operations such as here involved:

> "Commr. Patterson: Suppose in the interim period any railroad would operate its own sleeping cars. Would that not change the character of the sleeping-car service of that particular railroad?
>
> "Mr. Aronson: It might.
>
> "Commr. Patterson: If it did, might not that interfere with the labor relations with respect to the existing Pullman car employees on that line?
>
> "Mr. Aronson: I would hope not, and for this reason: The organization of railroad conductors represents the conductors on all, but apparently not all of the railroads of the United States, so that you have the same organization for most situations. *** the railroad conductors seniority, would, I suppose, pertain only to train conductors service and not to sleeping car conductors service *** some sleeping car conductor would be required - if in the eventuality you speak of, it would be the sleeping car conductor that might be employed by the ABC railroad instead of the Pullman Company, I take it that railroad would be desirous of employing that sleeping car conductor on that line if he wanted that job."

In subsequent discussion, Mr. Aronson stated that, provided all organizations involved would consent, the railroads would be willing to stipulate that a railroad which took over its sleeping car service would treat the sleeping car employees in the same manner as previously treated by the Pullman Company. He saw no interference with seniority rights. He maintained, however, that inasmuch as the O.R.C. and B. did not represent train conductors on some railroads, he could not predict what claims some other organization might make on behalf of train conductors on some particular railroad, and therefore could not stipulate for all carriers. The views of Mr. Aronson, speaking for all railroads, were developed in the following discussion before the Interstate Commerce Commission:

> "Commr. Patterson: If the railroad did take over the sleeping-car business, would you be willing to stipulate they would treat the sleeping-car employees in the same manner as they had been previously treated by the Pullman Company?
>
> "Mr. Aronson: If you will get all the other brotherhoods that are involved to agree with that.
>
> "That, Commissioner Patterson, is why I said to try to write this on horseback might be a terrible and unfortunate thing.
>
> "Commr. Patterson: That isn't the question I asked you. I asked you if you would be willing to make a reasonable stipulation with respect ---
>
> "Mr. Aronson (Interposing): Provided the other brotherhoods that would be involved would consent thereto. They do represent the conductors on certain railroads, and far be it from me to circumscribe what might be their contention as to their seniority rights.
>
> "Commr. Patterson: The only seniority rights that I understand are involved are Pullman car conductors seniority rights and not other conductors seniority rights.
>
> "Mr. Aronson: That is right.
>
> "But whether or not a particular brotherhood on a particular railroad might contend that there was a pre-emptor of all rights employed by that company, I would not dare say."

It will be observed that in 1947 Mr. Aronson, a Vice President of the New York Central, assumed that any railroad which discontinued its arrangements with Pullman would wish to employ sleeping car conductors in the continuation of its sleeping car service. The question is then presented as to whether anything has happened since that date to indicate that the job of the sleeping car conductor has become non-essential? This record does not so indicate and the carrier has made no such claim. In fact, the carrier inferentially concedes that the work of the sleeping car conductor remained after the change of operations. Because of the change it has added approximately 30 regularly assigned (helper) train conductors to its passenger trains, plus others intermittently off the extra list.

Train conductors, however, whether regular or helper, do not devote their full time to first class passengers and are also responsible for train operation, supervision of all employees, and for coach passengers. The carrier did not dispute the fact that the train conductors, with responsibilities divided between first class passengers and other duties, could not possibly render all the service to first class passengers as was rendered by sleeping car conductors who devoted their full time to this service without other responsibilities outside the sleeping cars. In many matters of attention to first class passengers in regard to sales and reassignment of space, in policing and guarding the cars, in supervision of porters, the train conductor is either not required to or could not provide the same service to first class passengers as that provided by sleeping car conductors. The significance of these facts, which are undisputed in this record, is that the action of the New York Central in dispensing with the use of sleeping car conductors was dictated solely for purposes of economy and not because the work performed by sleeping car conductors has become non-essential with the passage of time. The fact that in the past even railroads which operated their own sleeping car service, such as the Milwaukee, employed a separate craft of sleeping car conductors, when these employees were not even represented by a labor organization, is some further recognition of the fact that train conductors with divided responsibilities can not fully provide the customary service accorded first class passengers and that sleeping car conductors have been essential employees in the performance of this service.

Development of Protective Conditions for Similar Problems in Railroad Industry.

The problems which arise from employee displacements and dislocations resulting from changes in work methods, coordinations, mergers, and other organizational and corporate changes have long been experienced and dealt with in the railroad industry. For over half a century, protective rules and practices have been developed through various means and procedures including direct collective bargaining, actions of governmental agencies, and legislation. The principle of equity underlying this development was expressed by an early Emergency Board in considering the economic sacrifice to employees of a change in operations on the Texas and Pacific Railroad in 1929. That Board summed up the problem in the following terms:

> "In this case, in which the employees are seeking compensation for the depreciation in the market value of their homes due to the change of terminals, it may be conceded that the carrier is under no legal or contractual liability. It may also be conceded that the payment of compensation is not a policy generally sanctioned by customs and that the weight of precedent is against it. *** But after all the fact that a thing has not often been done is no reason why it should not be done if it be sound in principle and necessary to meet the demands of justice and fair dealing. *** The change ... will result in a substantial saving for the

> carrier. It is not fair, we think, that the carrier reap the entire benefit and that the employees be compelled to bear the entire loss." 1/
> (Emphasis supplied)

The same principle was expressed by the late Commissioner Joseph B. Eastman at the time he was serving as Federal Co-ordinator of Transportation under the Emergency Transportation Act of 1933. In his first report as Co-ordinator in January, 1934, Mr. Eastman said:

> "The employees cannot with wisdom oppose progress which will stimulate the growth and development of the industry. It is right and proper, however, that where changes in methods of operation or administration are made, not because of lack of business, but for the primary purpose of performing work more efficiently, salvage of the employees should be a charge upon the savings effected, within reasonable limits." 2/

Applying this principle, employees displaced as a result of mergers and consolidations and other changes in operating methods have been given dismissal compensation; employees who have been retained but reduced in pay status have been made whole -- at least for a specified period of several years; losses on homes and moving expenses have been paid for by the carriers; and many other adjustments and payments have been provided depending on the nature of the change and its effects on the workers.

The most well known arrangement for employee protection is the Washington Job Protection Agreement which was negotiated

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1/ Report of Emergency Board Appointed March 30, 1929, Under Section 10 of the Railway Labor Act. Reproduced in Employees' Exhibit 4, pages 1-4.

2/ First Report of the Co-ordinator of Transportation, January 20, 1954, Senate Document No. 119, 73d Congress, 2d Session, G.P.O., Washington, 1934, p.35. Reproduced in Employees' Exhibit 4, page 8.

by the carriers (including the New York Central) and all of the standard railway labor organizations (including the O.R.C. and B.) on a national basis in May, 1936. That agreement was restricted in its application to "co-ordinations" which were defined to include any "joint action" by two or more carriers to "unify, consolidate, merge or pool in whole or in part their separate railroad facilities or any operations or services previously performed by them through such separate facilities." The agreement provided that carriers contemplating such "co-ordinations" give the employees 90 days advance notice of such intention; the agreement provided the following types of protective rules:

1. Equitable assignment of employees to positions arising under the new arrangement or facility;

2. The maintenance of wages and working conditions at the pre-change level for employees who are continued in service but under less favorable wages and conditions, with the carrier paying a displacement allowance to make up the difference between the new wages and those received before the change;

3. A co-ordination allowance, for employees who are laid off but who choose to retain rights to return to service, equal to 60 per cent of their pay, with such payments to be made for periods varying from 6 months to 5 years depending on their length of service;

4. Or alternatively, for those who are laid off and choose to give up rights to return to service, a lump sum allowance amounting to from 3 months' pay to one year's full pay depending on services;

5. Reimbursement by the carrier for moving and travel expenses and for losses on sales for homes as result of changes in location caused by the "co-ordination";

6. Arbitration of disputes arising under the agreement.3/

The principle of employee protection has been generally accepted by the Interstate Commerce Commission in instances of railroad consolidations and -- to a limited extent -- in railroad abandonments. The Transportation Act of 1940 requires the Interstate Commerce Commission to prescribe protective conditions in approving applications for mergers and consolidations under Section 5(2) of the Interstate Commerce Act. The specific conditions adopted by the Commission have been modelled generally after those of the Washington Agreement. The standard formula applied in Section 5(2) cases (usually referred to as the "Oklahoma Conditions") provides for four years of protection from the effective date of the Commission's Order and dismissed employees are guaranteed full pay for such protective periods. 4/

The individual carriers themselves have further underscored the desirability and fairness of such protective arrangements by applying them to many situations which were not directly covered by either the Washington Agreement or the circumstances producing I.C.C. action. A number of railways have applied protective agreements in instances of changes in operations or

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3/ The New York Central was an original party to this agreement; the Pullman Company became a party to it in 1952.

4/ Virtually identical conditions prescribed by the I.C.C. in abandonments are usually referred to as the "Burlington Conditions."

5. Reimbursement by the carrier for moving and travel expenses and for losses on sales for homes as result of changes in location caused by the "co-ordination";

6. Arbitration of disputes arising under the agreement.3/

The principle of employee protection has been generally accepted by the Interstate Commerce Commission in instances of railroad consolidations and -- to a limited extent -- in railroad abandonments. The Transportation Act of 1940 requires the Interstate Commerce Commission to prescribe protective conditions in approving applications for mergers and consolidations under Section 5(2) of the Interstate Commerce Act. The specific conditions adopted by the Commission have been modelled generally after those of the Washington Agreement. The standard formula applied in Section 5(2) cases (usually referred to as the "Oklahoma Conditions") provides for four years of protection from the effective date of the Commission's Order and dismissed employees are guaranteed full pay for such protective periods. 4/

The individual carriers themselves have further underscored the desirability and fairness of such protective arrangements by applying them to many situations which were not directly covered by either the Washington Agreement or the circumstances producing I.C.C. action. A number of railways have applied protective agreements in instances of changes in operations or

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3/ The New York Central was an original party to this agreement; the Pullman Company became a party to it in 1952.

4/ Virtually identical conditions prescribed by the I.C.C. in abandonments are usually referred to as the "Burlington Conditions."

technological changes. The New York Central provided a comprehensive protective agreement for its clerical classes when it reorganized its Communications Department. Again, when it took over the facilities of the Merchants' Despatch Transportation Company (a refrigerator car company), the New York Central brought along the M.D.T. employees, employed by this separate corporation, with full seniority and rights. When the Pullman Company, itself, took over sleeping car operations of the Milwaukee Railroad, it took along the employees with full service and seniority. These actions were all in keeping with the philosophy and principles of fairness which have made employee protection an accepted procedure in the railway industry.

The practice has been extended to the Airline industry. In a number of cases, the Civil Aeronautics Board has provided protection in cases of consolidations, mergers and route changes. Generally, the C.A.B. has followed the standards used by the I.C.C. in its cases.

Even if it be claimed that the circumstances in this case do not match exactly the conditions which make the Washington Agreement applicable, or that this is not necessarily a case for handling under I.C.C. procedures, the same principles of equity prevail. Whether or not the New York Central's action in taking over the sleeping car service was a "co-ordination," a merger, or a pooling, the effects on the displaced conductors were exactly the same as those which would be expected from such changes or from similar changes for which the adoption of protective conditions has become standard practice through some available means in the railroad industry. The layoffs of these conductors were sudden and complete. Unlike men who are laid off as a result of declining business in periods of recession and who retain hope of recall as prosperity returns, these men -- with very few exceptions -- can harbour no real hope of being recalled to employment by the Pullman Company.

The question arises, why have not these employees pressed the Pullman Company for protective provisions? The answer is two-fold. First, the conductors' work has been taken over by the New York Central. The most natural and satisfactory solution to the employees would be to continue on their jobs, and this can be done only through an agreement with the New York Central. Equally important, however, is the second point which follows from the equity considerations basic to the allowance of protective agreements: The New York Central alone achieves benefits and savings from the changeover; therefore, it should bear all the costs of it, including the costs of employee protection. If the costs were borne by Pullman, they ultimately would rest on all of the owning carriers. The New York Central would contribute only to the small extent of its proportion of continuing operations. The balance of the cost would fall on the other owning carriers who can expect no benefits whatever from the New York Central action, and may actually be worse off because of the lost traffic volume of the Pullman Company. There is, too, a volitional factor involved. The New York Central chose to make the changeover. There has been no suggestion anywhere in the record that the take-over of sleeping car operations was anything other than an economy move deliberately initiated by the New York Central for its own benefit. Clearly, if relief for the displaced conductors is to be supplied, both practical and equitable considerations say the New York Central must supply it.

These facts coupled with the compelling needs of the displaced Pullman conductors dictate that the New York Central provide some relief for these employees. The next problem, of course, is specifically: What should be done? What measures and payments will best meet the needs of the displaced conductors within the boundaries or concepts of fairness to the New York Central? The answer lies in the principles and specifics of job protection that have been accepted by the New York Central in other relationships and situations analogous to the situation we have here. The Washington Agreement, the Oklahoma Conditions, and the Agreements made by the New York Central covering the Merchants' Despatch Transportation employees contain the elements which have been accepted for settlements of problems of this character. In simple form, those principles and elements are as follows:

1. The employee should follow the work.

2. Where the amount of work has been reduced, some layoffs or reductions in status must follow; for employees affected, two alternatives are usually available:

a. They may retain their rights to recall as jobs open up for them, and while awaiting recall or restoration to their former status, they are paid by the carrier the difference between their former earnings and whatever they earn in other employment; or

b. They may accept from the carrier a lump sum severance allowance and give up all rights to return to service.

The Board feels these principles are equitable; they have already been accepted in other instances by both the New York Central and the O.R.C. and B; they can be readily applied in this dispute.

Summary and Recommendations

The evidence clearly shows that the work formerly performed by Pullman Company conductors on New York Central Railroad passenger trains is still there to be done, although some of the services may, as the employees assert, be neglected or imperfectly rendered to passengers under the new arrangement. Whatever may be the appropriate term to apply to that re-arrangement, it is not significantly different in its nature and effects from the many kinds of re-arrangements to which the employee protective provisions of the Emergency Railroad Transportation Act, of many Interstate Commerce Commission decisions, of the Washington agreement, and of innumerable specific collective bargaining agreements have been applied. Employee assignments have been re-arranged, so that work formerly performed is still being done, but on other positions. By those re-arrangements the New York Central Railroad has substantially reduced its labor costs, the duties and responsibilities of train conductors have been greatly increased, and the employees formerly performing those services have been thrown out of work. Some of the employees affected have been able to find other work, but most of them have had no income for themselves and their families excepting the unemployment compensation paid under the Railroad Unemployment Insurance Act.

The result of the re-arrangement of employee assignments has been beneficial to the New York Central Railroad, and has brought serious hardship and privation to the employees affected.

Under those circumstances, and in the light of the overwhelming practice and precedent applied to similar situations in the industry over the last forty years, it seems clear that the appropriate course here is for the parties to enter into an agreement giving to these employees the same protections as those given other railroad employees in the past.

Basic to the agreement upon such protection is a determination of whether the work formerly performed by Pullman conductors is being performed, or is essential to the service. The Pullman Company is still rendering its sleeping and parlor car service, as the agent of American railroads, on practically all the lines in the country. Its standards of service to passengers would seem to provide a reasonable basis to apply to the same service on the New York Central Railroad. That would require, according to the evidence submitted in this case, that sleeping car conductors be assigned to trains carrying two or more sleeping cars. Since the railroad companies have, through their agent, the Pullman Company, agreed to that standard, the New York Central Railroad -- second largest among railroad owners of the Pullman Company -- would doubtless upon mature consideration want to give equivalent service and protection to sleeping car passengers while travelling upon its lines. That, in any case, has been the standard followed on New York Central Lines prior to July 1, 1958, and no evidence in this proceeding indicates any lessening of the need for such care and service for sleeping car patrons, after that date. 5/

The evidence does show, however, that fewer sleeping cars are being operated now than heretofore. Even with the assigning of the duties of sleeping car conductors to re-established positions, on the basis of service rendered to passengers on other railroads and on the New York Central prior to July 1, 1958, there will be fewer sleeping car conductors required than were employed before that date. Provision should be made for them, in line with the general practice in the industry. It is recommended, therefore, that the parties enter into an agreement providing:

1. On any New York Central train carrying two or more sleeping cars, an assistant conductor will be assigned to handle exclusively the duties of sleeping car conductor.

2. All sleeping car conductors assigned to positions upon the New York Central lines prior to the re-arrangement of July 1, 1958, shall be taken into the direct employ of the New

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5/ Also the commitments made by the railroads during the anti-trust suit implied acceptance of the reasonableness of the Pullman Company's contract with the O.R.C. and B., which contained this basic standard.

York Central, and their names shall be placed upon a separate seniority roster, giving them the seniority and service dates, rates of pay and vacation rights that they had in Pullman Company service.

3. Positions of "assistant conductor in charge of sleeping cars" shall be bulletined, and employees on the sleeping car conductor seniority roster shall have prior right to bid upon those positions.

4. Any sleeping car conductor in the active employ of the Pullman Company on New York Central lines prior to July 1, 1958, for whom no position is available, shall be considered as having been deprived of his employment by the re-arrangement, and shall be entitled to a co-ordination allowance of the amount and duration specified in Section 7 (a) of the Washington Agreement, applied as that Section 7 provides.

5. Working conditions of the type set forth in the agreement between the Pullman Company and the O.R.C. and B., insofar as they are pertinent to the special kinds of assignment appropriate to sleeping car conductors, shall be the subject of negotiation between the parties. Other working conditions and benefits shall be negotiated on the general principle of conformity to the agreement between the New York Central lines and the O.R.C. and B., covering train conductors.

ROCK ISLAND EXHIBIT NO. 28

WITNESS: G. E. MALLERY

Before The President's Emergency Board

National Mediation Board Case No. A-6082

SWITCHMEN'S WAGE ADJUSTMENT CASE

PATTERN SETTLEMENTS OF RAILWAY LABOR DISPUTES
(1937 to 1955)

1960

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PATTERN SETTLEMENTS OF RAILWAY LABOR DISPUTES

For many years all lasting settlements of all national wage and rules disputes in the railroad industry have been reached through what has been described as "pattern collective bargaining" or "agreement by pattern". The purpose of this exhibit is to explain the principle upon which pattern collective bargaining is based and the reasons why pattern settlements are inevitable, and to show the historical development and effect of the pattern settlement principle -- insofar as these matters are material and relevant to the issues involved in these proceedings.

EXPLANATION OF THE PATTERN SETTLEMENT PRINCIPLE

Pattern collective bargaining in the railroad industry has resulted from the fact that employee morale and stable and harmonious labor relations can be maintained, and endless turmoil and strife avoided, only if uniform and nondiscriminatory adjustments are made in the rates of pay and in the rules governing the compensation and working conditions of all classes and crafts of employees that are similarly situated with respect to each proposed adjustment.

Although due consideration must be given to material and relevant differences in the working conditions of the different classes of employees and to differences in the rules governing their compensation in the application of this principle, there should be clear and compelling reasons which are accepted generally throughout the industry for special treatment of a particular class or craft.

Accordingly, when a substantial body of carrier employees have agreed upon a uniform settlement of wage and rules demands involved in any national railway labor movement, a pattern is established for the settlement of all demands involved in the movement; and any organization or group of employees that asks for any other or different disposition of its demands should be prepared to show convincing and controlling reasons why such other or different handling should be granted. And in determining what are convincing and controlling reasons, due consideration must be given to the inequities and other evils that may result from departing from the pattern.

The very fact that a pattern exists is convincing evidence of its fairness. All of the organizations representing railway employees are militant, independent and powerful. The judgments of their officers and members in making a settlement in a national movement are compelling evidence of the fairness of the adjustments agreed upon -- particularly in view of the rivalry which exists between the organizations -- discussed later in this exhibit. No standard railway labor organization will accept less in the way of wage increases or other benefits than the most that it thinks any other organization may receive. When several railway labor organizations and the crafts and classes of employees that they represent are willing to accept a settlement of their demands, while the demands of other organizations are pending, it must be presumed that a general application of the settlement to all classes and crafts is fair and reasonable; and this presumption should be disregarded only if and when clear and explicit evidence to the contrary is adduced.

The principle of pattern settlements is not an invention of the carriers. On the contrary, a survey of past railway wage and rules movements shows that the principle of pattern settlements originated with arbitration and emergency boards that were searching for some equitable and fair means of maintaining labor peace in the railway industry. It is improbable that the Railway Labor Act would have survived if the men who sat upon those emergency and arbitration boards had not brought order out of confusion by reducing to a formula, susceptible of expeditious application, standards of values already subconsciously recognized by all elements of the industry to be necessary to employee morale and harmonious labor relations.

The practical operation of the pattern principle was well described by the Temporary Emergency Railroad Wage Panel in its report to the Administrator of the Economic

Stabilization Agency in 1951. That board found that a pattern for the disposition of an entire national wage movement had been established by settlements with the Switchmen's Union of North America and the Railroad Yardmasters of America, which represented less than one percent of the total employees involved in the movement. In its report, the Panel Board, consisting of William Leiserson, Lloyd Garrison and Frank Swacker, said:

> "For a great many years there has been a pattern of uniformity in railroad labor contracts with regard to operating (ops) and non-operating (non-ops) employees. . .
>
> "In national wage cases, members of different crafts are typically involved; their cases at any given time are in varying stages of development; and sometimes quite accidental factors determine which will be the first to arrive at a settlement. That settlement will then have profound, and generally decisive, effect upon the terms to be extended to the other crafts. In the instant case, as has been seen, due to various peculiar circumstances, the Switchmen's Union was the first to reach an agreement, which included an escalator clause. Soon afterwards the Yardmasters' Union reached a similar agreement. These two unions represent only a small fraction of the employees in the industry, yet it was inevitable that the escalator-clause agreements which they made would become a pattern for subsequent agreements, especially in view of the fact that the clause had been initiated by the President's own representative in his earlier discussions with the Conductors and Trainmen."

The principle of pattern adjustments of railway labor disputes has evolved with the approval and affirmative support of the organizations representing railway employees. The history of railway labor movements, discussed on later pages of this exhibit, shows that the representatives of each of the railway labor organizations believe in, and insist upon, the application of the pattern principle of adjustment of wage disputes, unless they are attempting to obtain unfair, discriminatory and inequitable advantage over rival organizations, or for the employees that they represent. The support of the pattern principle by the organizations -- as well as by the carriers -- is based upon very practical considerations, explained in the next section of this exhibit.

REASONS WHY PATTERN SETTLEMENTS HAVE BECOME INEVITABLE IN THE RAILROAD INDUSTRY

As the report of the Temporary Panel Board suggests, the pattern principle springs from circumstances which are peculiar to the railroad industry, namely, (1) the extraordinary degree to which railway employees from different carriers and classes of employment are thrown together in their work, and (2) the unusual manner in which railway employees are represented, resulting in intense rivalry among the different labor organizations.

(1) Intermingling of Railway Employees

Railway employees are peculiarly sensitive to and resentful of discriminatory or preferential treatment of any class or classes in connection with wage adjustments and changes in or revisions of schedule rules. This is the result of the extraordinary extent to which railway employees have opportunity and occasion to compare their work and wages with those of employees of other crafts and of other carriers. That opportunity arises from the fact that employees of several carriers and several classes or crafts of employees of the same carrier, represented by different organizations, customarily work together on trains and in the yards and the offices of the railroads. In large terminal yards both operating and nonoperating employees of a number of line-haul carriers, of one or more terminal or switching companies, and employees of the Pullman Company and of the Railway Express Agency customarily work together or are employed in close proximity to each other. These employees are drawn from a substantial number of the 128 classes of railway employees. Their duties are usually interrelated and overlapping, and they are keenly aware of and quick to resent any discrimination or inequality of treatment in matters involving wages or other benefits which are susceptible of uniform application.

To an individual employee, the relationship of his work and wages to the work and wages of these other employees is most important. This was recognized by Emergency Board

No. 97 in January, 1952, when it said:

> "... it is well known to students of labor relations and economics that the most important inequities are those felt and suffered closest to home. That is, workmen have the keenest sense of injustice in respect to what have come to be known as intra-plant or intra-firm inequities - unreasonable or unjustified wage rate differences between the rates in effect for a given job or craft in relation to the rates being paid for other jobs or occupations, particularly those that are closely related in terms of physical proximity or in terms of connections in the production process." (Report, p. 26)

Mr. W. P. Kennedy, President of the Brotherhood of Railroad Trainmen, also referred to this fact in his testimony before the Senate Committee on Labor and Public Welfare in March, 1951. Mr. Kennedy pointed out that an agreement for a cents-per-hour increase in basic wage rates had been made on the Indiana Harbor Belt Railroad with the Brotherhood of Locomotive Firemen and Enginemen and deplored the fact that in national handling the Brotherhood of Railroad Trainmen had not yet been able to secure for its members the same wage increase. He said (Tr. 1070):

> "Just think what a ridiculous situation that is going to be in the Chicago District. Here is a group of men now enjoying increased rates. What about the other fellow? Do you think that is going to create satisfaction? I will say that that will create more dissatisfaction than you or I or anybody in this room can stop, because there is nothing that upsets the railroad man more than to find that somebody gets more money for doing the same character of work that he is doing." (Emphasis supplied)

In perhaps no other industry are employees who are working at different jobs and for different employers thrown together in their work so closely and so often as they are in the railroad industry. The great importance which this factor assumes in the railroad industry is illustrated by the fact that the basic wage rates of railroad employees do not vary significantly from carrier to carrier or from region to region, but are substantially uniform on a national basis. Since 1903 railroad employees have sought and won standardized rates. Even as early as 1917 William Z. Ripley stated in an appendix to the "Report of the Eight Hour Commission" that the goal of the organizations was standard rates "continent wide." (Report p. 346) In illustration of the even then supposed necessity of such standardization, Ripley cited the fact that the differential between local and through freight wage rates was different in the Western region from what it was in the Southeastern region, and he pointed out that "such diversity of practice can scarcely fail to promote unrest and contention." (Report p. 346) Outside the railroad industry differences in wages paid to a single craft in the Western and Southeastern portions of the United States were and are of much less moment. In other industries it is rare, even today, to find the standardized rates and national handling of wage disputes which have characterized the railroad industry for many years -- which is indicative of the degree to which extensive employee intermingling is important in and peculiar to the railroad industry.

(2) Employee Representation in the Railroad Industry

The second factor giving rise to the pattern principle of wage adjustments in the railroad industry springs from the fact that employee representation in this industry differs in very material respects from the situations that prevail in outside industry.

The employees on each railroad are represented by many different labor organizations. There are some 20 so-called standard railway labor organizations that hold representation rights on the majority of all railroads. There are at least 31 other organizations (excluding local unions and system associations) that hold more restricted representation rights. There is considerable overlapping of the classes of employees that these organizations seek to represent. The most intense rivalry for membership, jurisdiction and prestige exists between different organizations. As a result each organization seeks to secure for the employees it represents benefits at least as great as and, if possible, greater than those which have been or may be secured by any other organization.

To favor one of these rival organizations over another would result in a complete deterioration of employer-employee relations; and even a slight departure from uniform wage adjustments inevitably causes other organizations to file demands to correct alleged inequities and inequalities.

The rivalry that exists between certain of the organizations representing railway employees is accentuated by various circumstances including, among others, the following:

1. Railway employees have considerable latitude in choosing the labor organization to which they will belong, and in many instances they need not and do not belong to the organization which represents the craft or class in which they are working for purposes of collective bargaining. Even on roads where there is a union shop for operating employees, such employees may comply with the provisions of the agreement by belonging to any one of the standard organizations representing operating employees.

2. The organization in which an employee holds membership ordinarily represents him individually in handling grievances and claims. This circumstance sometimes causes an employee to join an organization that does not represent his class

or craft for purposes of collective bargaining.

3. Operating employees who wish to maintain membership in the organization which represents their craft, may be required to change their membership from one organization to another or to maintain memberships in several organizations because of the joint seniority and promotional sequence that exist between senior and junior crafts -- as between brakemen and conductors, engineers and firemen, etc. On roads where operating employees have joint road and yard seniority, a man may work interchangeably over a period of many years as yard brakeman, yard conductor, road brakeman and road conductor -- moving back and forth among these various positions depending upon the level of business and the extent of his seniority; however in each position he may be represented by a different organization.

4. Because of the fact that most operating employees over a period of many years customarily hold assignments in which they are successively classified, for representation purposes, as members of several crafts (depending upon the level of business, their seniority, and their personal preferences), the organization holding bargaining rights for any particular craft varies from time to time with the consist

of the group. Thus, an increase or decrease in the number of employees falling within the group may, and frequently does, result in a change in the organization holding representation rights.

5. An employee's initial choice of union membership or his later decision to change membership may also be influenced by such practical considerations as insurance benefits and other rights or privileges offered or acquired in one or another of the several organizations.

The extent of the rivalry between organizations representing railroad employees is illustrated by the fact that few if any of the organizations represent all of the employees of the Class I railroads of any one class or craft. In some instances a single craft is represented by different organizations on different parts of the same railway system.

During the last 21 years the National Mediation Board has handled a total of approximately 3,000 representation disputes under the terms and provisions of the Railway Labor Act. Disputes handled during the fiscal year ending June 30, 1955 involved 90 crafts or classes of employees.

(3) Summary

In summary, these two factors -- the daily contact and intermingling of employees of different carriers and of different crafts in their daily work, and the competition among organizations for membership among employees who are free to move from one organization to another -- greatly complicate the problem of maintaining labor peace in the railroad industry. In view of the circumstances heretofore described, it is not surprising to find that labor movements in this industry cannot be finally and successfully disposed of except on a pattern basis providing uniform and non-discriminatory treatment for all groups and classes involved. Obviously, no organization and no group of employees will willingly accept lesser benefits than those conferred upon any other organization or group, unless it is clear to all concerned that unequal treatment is justified by the circumstances -- and the several organizations are frequently reluctant to admit that any circumstances justify favored treatment of others.

Efforts to resolve the difficulties confronting management and the various boards, referees and other wage authorities that have dealt with this problem have resulted in the development of the principle of pattern settlements of railway labor disputes, which is now indubitably the single most important factor affecting the handling of labor relations in the railway industry. The origin of this principle and its development, scope and effect, can best be shown by a brief review of the history of the national wage and rules movements in this industry since 1936.

THE HISTORY OF PATTERN SETTLEMENTS IN THE RAILROAD INDUSTRY

This next section of this exhibit contains a brief examination of the railway labor movements which have occurred since 1936 and shows the historical development and effect of the pattern settlement principle. It will be apparent from this historical review why pattern settlements of labor disputes are necessary and inevitable in the railroad industry.

The genesis of the pattern principle in the railroad industry was undoubtedly in the ten-year period between 1928 and 1937, when the basic rates and the rules governing the working conditions of the various classes and crafts of railway employees remained unchanged. During this period the rules governing the compensation and working conditions of railroad employees and the differentials existing between their various rates of pay became firmly established in the minds of the employees. Changes in these relationships have since been viewed with suspicion by all organizations and the employees that they represent.

In 1937, following this decade in which basic rates and working rules remained virtually unaltered, railway labor organizations initiated the first of a long series of general wage and rules movements. The following pages of this exhibit outline the history of each of these major movements. The history is complex and intricate; and some of the movements were characterized by apparent confusion and inconsistencies. But this very complexity is, in fact, one of the most significant aspects of the history, for it was caused by, and the result of, the demands, counter-demands, supplemental demands, negotiations, investigations and arbitration and emergency board proceedings to which the individual organizations resorted in order to obtain results at least as favorable as those achieved by each of the other organizations representing railway employees. The net result has been the principle of pattern settlements of railway labor disputes.

The 1937 Wage Movement

The 1937 wage movement was initiated on March 4 of that year, when fourteen organizations representing railroad nonoperating employees filed joint demands for wage increases of 20 cents per hour, "applied to hourly, daily, weekly, monthly or piece rates, so as to produce the same increase for all employees." Shortly thereafter, on March 22, 1937, the five organizations representing railroad operating employees filed joint demands for an increase of 20 percent in all existing rates of pay.

After negotiations and mediation, a settlement was made with the nonoperating organizations on August 5, 1937. Under this settlement the nonoperating employees were granted a wage increase of 5 cents per hour, effective August 1, 1937, to be "applied so as to produce the same increase irrespective of method of payment."

The organizations representing operating employees insisted on greater increases in the rates of the employees that they represented than the nonoperating employees had received; and the carriers ultimately agreed, on October 3, 1937, to grant to the operating employees increases which were one-half cent per hour greater than the increases granted nonoperating employees. The agreement accordingly provided for a uniform wage increase of 44 cents per basic day (or 5.5 cents per hour) for all classes of operating employees, effective October 1, 1937.

At the time the settlement with the operating groups was made, the nonoperating employees were very critical of the disparity in increases; but no compensating increase was granted to the nonoperating groups at that time. In fact, business conditions were so unfavorable that in

1938 the carriers sought -- although unsuccessfully -- a wage decrease for all employees. However, the nonoperating employees continued to express dissatisfaction with the 1937 settlements and contended that even the slight difference of one-half cent an hour in the increases granted had created a substantial inequity. This disparity was corrected in the 1941 movement.

The 1941 Wage and Rules Movement

In the 1941 wage and rules movement (after an emergency board hearing and prolonged negotiations) a pattern settlement was finally reached in which nonoperating employees received identical cents per hour increases in their rates of pay, which exceeded by 1/2¢ an hour the uniform cents per hour increases granted to all operating employees.

This movement began in 1940 when the organizations representing nonoperating employees served demands upon the carriers for paid vacations. These demands were followed by notices dated June 10, 1941 containing uniform demands for an increase of 30¢ per hour in the rates of pay of all employees covered, and a minimum hourly wage of 70¢ per hour.

Also, on June 10, 1941, the five organizations representing operating employees served uniform demands for an increase of 30% in basic daily rates with a minimum money increase of $1.80 on the minimum day. Thereafter, on November

24, 1941, the Brotherhood of Railroad Trainmen filed supplemental demands for the employees that it represented requesting two weeks' vacation with pay, a train limit rule and various other rules changes.

The demands of the operating and nonoperating organizations were considered in conference and mediation and were thereafter referred to Emergency Board No. 11. That board was concerned with the low hourly rates and earnings of nonoperating employees, particularly in view of the greater rates and earnings of the operating employees, and in its report dated November 5, 1941, it recommended higher wage increases for the nonoperating groups than for the operating groups.

The carriers accepted the recommendations of the board, but both groups of employees rejected them. Both the operating and nonoperating groups contended that the recommended increases were too low; and the organizations representing operating employees also objected because the percentage increase in pay which the board had recommended for operating employees did not result in as great a cents-per-hour increase to the lower-paid operating employees as did the cents-per-hour increase recommended for nonoperating employees.

Following the organizations' rejection of the board's recommendations, the President of the United States called a series of meetings with the parties. When these conferences achieved no results, the President reconvened the emergency board, on November 27, 1941, and authorized it to hear further arguments.

After two days of reargument the reconvened board concluded that as a fact-finding board it had no reason to change the recommendations made in its original report. Since the parties refused to settle on that basis, however, the board offered to mediate the dispute if the parties so desired. Finally, as a result of such mediatory efforts, an agreement was reached which provided for increases in basic rates of 9½ cents per hour for operating employees and of 10 cents per hour for nonoperating employees.

Thus the 1941 movement was terminated only after the organizations had thwarted efforts to grant wage increases which were significantly different for different employees. All operating employees received an increase of 9½ cents per hour and all nonoperating employees received 10 cents an hour. The one-half-cent-per-hour additional increase for the nonoperating employees was a product of their insistence that the supposed inequity created by the unequal adjustments in 1937 be corrected.

The net result of the 1937 and 1941 wage movements was total increases of 15 cents per hour for all railroad employees, both operating and nonoperating employees, regardless of the level of their rates of pay.

Agreements were signed with the five organizations representing operating employees on December 5, 1941 and with the fourteen organizations representing nonoperating employees on December 15, 1941. All agreements contained moratorium provisions barring demands for rules changes for a period of eighteen months. The moratorium provision appearing in the agreement covering operating employees was as follows:

> "It is hereby agreed by and between the parties hereto that all proposals with respect to changes in rules submitted by the carriers at the conferences commencing July 24, 1941 and the proposals with respect to rule changes submitted, to the carriers by the Brotherhood of Railroad Trainmen November 24, 1941 are hereby withdrawn. It is further agreed by the signatories to this instrument that none of such proposals shall be resubmitted for the purpose of handling in regional or national conference or on any individual railroad, and that no proposals for changes in rules or working conditions will be initiated or progressed within a period of 18 months from December 1, 1941, provided, however, this paragraph shall not be construed to prohibit adjustments of contracts on individual railroads to meet changing local conditions during the period of this moratorium."

The agreement between the carriers and the organizations representing nonoperating employees provided that:

> "All notices of changes in working conditions agreements served upon the labor organizations by certain carriers on or about June 9, 1941, are withdrawn. Neither the carriers nor the employees will hereafter initiate a regional or national concerted movement to revise rules agreements for a moratorium period of eighteen (18) months from December 1, 1941. This not to include wage rates."

The December 1941 settlement with the organizations representing nonoperating employees also granted to these employees a vacation of one week with pay. As only the Brotherhood of Railroad Trainmen had served a vacation demand upon the carriers, like vacation benefits were not extended to the operating employees. This difference in treatment was immediately cited by the organizations representing the operating employees as discriminatory and unfair. In the 1942-1943 wage and rules movement that followed, all of the organizations representing operating employees demanded vacation benefits -- and were successful in correcting this alleged "inequity".

The 1942-1943 Wage and Rules Movement

The importance and inevitability of the pattern principle first became obvious to the carriers and perhaps to the organizations in the 1942-1943 wage and rules movement. That movement lasted for nearly a year and a half and was marked by numerous proceedings before arbitrators, referees and emergency boards. The pattern was finally set by an award of the President of the United States applicable only to employees represented by the Brotherhood of Locomotive Engineers and the Brotherhood of Railroad Trainmen. Once the pattern was established, however, the other organizations quickly settled on the same basis.

The movement began on September 25, 1942, when fifteen organizations representing nonoperating employees served a uniform demand for an increase of 20 cents per hour in all wage rates, a minimum rate of 70 cents an hour, and the establishment of a union shop. On January 25, 1943, the five organizations representing operating employees filed joint demands for an increase of 30 percent in wage rates, with a minimum money increase of $3.00 on the minimum day.

The demands of the two groups were presented to a total of three emergency groups and to arbitration by the President of the United States. The requests of the nonoperating employees were first heard before the Sharfman Emergency Board*, which rendered its first report on May 24, 1943, and a supplemental report on May 29, 1943. This board recommended an increase of 8 cents per hour for all nonoperating employees. On August 7, 1943, an agreement was made on that basis, but the Office of Wage Stabilization refused to approve it.

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* During World War II emergency boards were designated by the Chairman of the National Railway Labor Panel pursuant to Executive Orders 9172 and 9299, which superseded the Railway Labor Act in part. Such boards were not assigned a number, and are identified in this exhibit by the name of the board's chairman.

Meanwhile, a second emergency board, the Stacy Board, heard the requests of the five organizations representing operating employees, and in its report of September 25, 1943, recommended a lesser increase, of only 4 cents an hour, for operating employees. This recommendation was rejected by the five organizations involved.

On October 16, 1943, the President appointed a special emergency board, the Shaw Board, to reconsider the wage demands of the nonoperating employees, which had been reopened after the Office of Wage Stabilization had rejected the August settlement. This board recommended a sliding scale of increases under which lower-paid employees would receive greater increases than higher-paid employees. In its report of November 4, 1943, the Board noted that:

> ". . . We are aware of the desire on the part of both employers and the representatives of the employees to exactly maintain existing differentials by means of a flat increase in wages of the same number of cents per hour to all employees . . ." (p. 9)

but went on to conclude that:

> ". . . To eliminate substandards we find it necessary to recommend substantial increases for the lower paid groups of employees and at the same time, in order to avoid inflationary tendencies find it necessary to taper these increases as the wage scale progresses upward." (p. 9)

This recommendation was rejected by the organizations representing nonoperating employees, although it would have given approximately a third of the employees covered more, and over half of them as much as or more, than they would have received under the recommendations of the Sharfman Board, which they had accepted.

In the meantime, the organizations representing operating employees initiated a new rules movement including demands for the payment of time and one-half for work in excess of 40 hours per week, two weeks' annual vacation with pay, expenses away from home and other changes in the rules governing the compensation and working conditions of the employees that they represented. Strike dates were then fixed by all of these organizations, and the President ordered government seizure of the railroad properties to avert an interruption of commerce.

On December 23, 1943, the President proposed that the carriers and the organizations representing operating employees permit him, as sole arbitrator, to determine the issues between them. The President's offer was accepted by the carriers and by two of the organizations, the Brotherhood of Locomotive Engineers and the Brotherhood of Railroad Trainmen.

On December 27, 1943, the President announced his award. It gave the Engineers and Trainmen a total of nine cents, consisting of the 4-cents-an-hour increase recommended by the Stacy Board and a further increase of five cents an hour "in lieu of claims for time and half pay for time over

40 hours and for expenses while away from home." The award further granted the employees before him a one-week vacation with pay which the nonoperating employees had received in the previous movement. Pursuant to the award, an agreement was signed on December 29, 1943, between the carriers and the Trainmen and the Engineers.

This agreement set the pattern, but the remaining three organizations representing operating employees were prevented from settling on the same basis by the fact that their wages had been frozen by the Executive Order under which the Government had seized the railroads. On January 8, 1944, the President asked the Secretary of War to modify the order to permit the extension of the pattern settlement to the remaining groups. The President stated that he was basing his request "particularly [on] the recommendation of Mr. Whitney and Mr. Johnston, representing the Engineers and the Trainmen." The recommendation to which the President referred was in writing and stated that employee morale required settlement with all of the organizations on the same terms and conditions and effective the same date as the agreement which had been made with the Engineers and Trainmen. The recommendation is a clear illustration of the fact that railway labor executives then recognized the necessity for and inevitability of pattern settlements of railway labor disputes.

In accordance with the President's request, an agreement between the carriers and the other organizations representing operating employees was approved, and executed on January 14, 1944, on terms identical to those contained in the Engineers' and Trainmen's agreements.

As soon as the carriers accepted the President's additional award of five cents an hour to the Engineers and Trainmen, the nonoperating organizations withdrew their rejection of the sliding-scale increases recommended by the Shaw Board, but insisted that they be awarded an additional increase, comparable to that which had been given to the operating employees in lieu of overtime and expenses away from home. The basis for such increases did not exist in the case of nonoperating employees as in the case of the operating employees; nevertheless, the nonoperating employees continued to insist on uniform total increases which would be at least equal to the 9-cents-per-hour increase granted to the operating employees.

The Shaw Board was reconvened, and after further negotiation an agreement was reached on January 17, 1944, under the terms of which the nonoperating employees received total increases averaging 9.4¢ per hour.

That settlement with the nonoperating groups brought to a close the 16-months movement in which all proposals and recommendations which would have resulted in any difference of treatment of different groups of railroad workers proved entirely abortive. All of the settlement agreements provided for a moratorium "until the cessation of hostilities" barring demands relating to the subject matter of the President's award. The agreement with the Engineers and Trainmen quoted the President's award. The agreement with the Conductors, Firemen and Switchmen contained this provision:

> "The subjects of time and one-half pay for time worked over 40 hours per week, expenses away from home, and vacations with pay, shall not be further considered by the parties during the continuation of hostilities. This agreement arrived at in time of war shall not prejudice the rights of the parties after Proclamation by the President of the United States or Declaration by the Congress of the cessation of hostilities, to again consider the three subjects above referred to in this section, in accordance with provisions of the Railway Labor Act, as amended. The provisions of this section shall not be construed as a restriction on the right of the parties to take action with respect to change of the basic rates of pay established by application of the increases in rates of pay provided for in this agreement, or to amend existing rules, or to propose new rules not connected with the three subjects above referred to in this section, in accordance with the procedures of the Railway Labor Act, as amended."

The agreement with the organizations representing nonoperating employees provided that:

> "The supplementary increases provided for in Section 3 hereof shall be paid as the equivalent of or in lieu of claims for time and one-half pay for time worked over 40 hours per week; and shall be paid until Proclamation by the President of the United States or Declaration by the Congress of the cessation of hostilities

> and thereafter until changed in accordance with the Railway Labor Act, as amended. This section, agreed to in time of war, shall be without prejudice to the right of either party after the expiration of the date above stated to seek a change in the agreement which is now made with respect to such supplementary increases, in accordance with the provisions of the Railway Labor Act, as amended. Overtime compensation shall continue to be computed and paid in accordance with the provisions of existing agreements and the rules now governing overtime payments shall remain in effect subject to the right of either party to seek any change in or supplement to such rules, provided that no request for overtime penalty pay shall be sought during such period for any hours worked solely because they are worked in excess of 40 per week."

As appears from the table in Appendix A to this exhibit, the first three post-depression wage and rules movements in the railroad industry resulted in uniform increases of 24¢ per hour in the basic rates of pay of all classes and crafts of operating employees, and average increases of 24.4¢ per hour in the rates of pay of all classes and crafts of nonoperating employees. The sums of the wage increases received by all of these classes would have been identical except for the fact that in 1943 the lowest paid nonoperating employees received slightly greater increases in their rates of pay than did other railroad employees, because of their relatively lower earnings.

The first three post-depression wage and rules movements also gave to all classes and crafts of railroad employees the same vacation benefits; and the pattern agreements that had terminated these movements contained substantially similar moratorium provisions.

The inevitability of "agreement by pattern" was now fully recognized. It was apparent to all elements of the industry that labor peace could not be achieved or maintained unless uniform and nondiscriminatory treatment was accorded to all classes and crafts of employees, both with respect to wage adjustments and with respect to the changes in rules and working conditions. The moratorium, or "cooling-off" period was also established as a necessary element of pattern settlements terminating the more controversial movements.

It was a foregone conclusion that these considerations would be controlling of the disposition of the next wage and rules movement.

The 1945-1946 Wage and Rules Movement

Wage and rules demands involved in the 1945-1946 movement were considered by two arbitration boards and an emergency board. In both arbitration proceedings the parties stipulated that any wage increase awarded should be a uniform, cents-per-hour increase in the basic rates of all employees involved, and such increases were awarded. Two of the organizations sought preferred treatment and carried their demands to an emergency board, which rejected their requests for greater increases and recommended that they receive the same increases as had been granted other employees by the arbitration boards.

The 1945-1946 wage and rules movement began on July 24, 1945, when the Brotherhood of Locomotive Engineers and the Brotherhood of Railroad Trainmen served a joint demand on the Carriers for an increase of 25 percent in basic rates, with a minimum of $2.50 per basic day, together with numerous rules changes. On the same day, the Brotherhood of Locomotive Firemen & Enginemen, the Order of Railway Conductors and the Switchmen's Union of North America served a joint demand on the Carriers which in all material respects was the same as that served by the Engineers and Trainmen.

During the summer and fall of 1945, the organizations representing nonoperating employees also served notices of desired changes in rates of pay, rules and working conditions, but when their various proposals reached the stage of national handling, they converted these demands into a single proposal for a uniform wage increase of 30 cents per hour. The pattern set by these organizations in deferring their rules demands was followed by the Brotherhood of Locomotive Firemen and Enginemen, the Order of Railway Conductors and the Switchmen's Union of North America.

Two arbitration boards were selected -- one to hear the wage demands of the nonoperating employees and the other to hear the wage demands of the Conductors, Firemen and Switchmen. No arbitration agreement could be reached with the Engineers and Trainmen and their demands were referred to Emergency Board No. 33.

Both arbitration boards rendered their decisions on April 3, 1946, each board awarding increases of 16 cents per hour effective January 1, 1946 to the employees involved. Agreements were promptly signed by the carriers and the organizations placing these awards in effect.

The importance of the pattern principle to the organizations was apparent during these proceedings in that both of the arbitration boards were limited by stipulation of the parties to awarding the same cents-per-hour increases for all employees before the respective boards. The agreement providing for the arbitration of the nonoperating employees' wage demands specified that "any increase awarded shall be a uniform increase in cents per hour, applicable to all employees parties hereto." The arbitration agreement with the Firemen, Conductors and Switchmen did not contain this provision. When this omission was called to the attention of the parties during the course of the proceedings, the parties promptly stipulated that the award must provide for uniform, across-the-board cents-per-hour adjustments.

The arbitration awards were filed prior to the date of the report of Emergency Board No. 33. In that board's report to the President it stated that the wage pattern fixed by the previous awards was binding upon it. In this connection, the board said:

> "At the outset of consideration of this proposal we are confronted with the situation that there were sitting concurrently two Boards of Arbitration, constituted under the Railway Labor Act, considering similar demands. . . . On April 3rd these boards rendered their decisions, in each case awarding an increase of 16 cents per hour in the basic hourly rates.
>
> "This, it is asserted, and we believe correctly, fixes a pattern binding upon this Board, and we accordingly recommend a like increase . . . ."
>
> * * *
>
> ". . . The awards above mentioned apply to 85 percent of the employees of the railroad industry. There is much doubt as to what other industries may be said to be 'related' industries. Certainly, the wage scales of employees in no other industry can be said to be as closely related to those of the employees here involved as are the wage scales of other employees in the railroad industry. To attempt to remove alleged inequities by a finding in excess of that awarded would be immediately to create new inequities within the industry itself and would result in demands by the other groups of employees of the industry for an equalization." (Emphasis supplied)

The report of Emergency Board No. 33 also recommended certain rules changes.

The carriers accepted the report and recommendations of Emergency Board No. 33, but its recommendations were rejected by the Brotherhood of Locomotive Engineers and the

Brotherhood of Railroad Trainmen. Strike dates were fixed by these organizations, and on May 17, 1946 the President issued an Executive Order seizing possession and control of the railroads in order to avoid an interruption of the service.

In the meantime, the organizations that had submitted their wage disputes to arbitration filed new demands for further wage increases in order to avoid any possibility of a discriminatory settlement with the Engineers and Trainmen.

The President then intervened in the dispute -- recommending an additional increase of 2½ cents an hour for all operating employees in lieu of pending requests for changes in rules with a moratorium of one year on rules change proposals. Although no rules controversy then existed between the carriers and the nonoperating employees, the President also recommended a 2½-cent increase in the rates applicable to these employees. It was recognized at that time that the dispute could not be settled unless all classes of employees were treated alike. The pattern principle of adjustment of railway labor disputes had become generally accepted throughout the industry. No one questioned its vitality or validity and agreements based upon the White House recommendation were made by the carriers with all of the organizations involved on the 25th day of

May, 1946. The agreements with the organizations representing operating employees contained the following moratorium provision:

> "All proposals with respect to changes in rules or working conditions submitted by the parties on or about July 24, 1945 are hereby withdrawn; and none of such proposals will be resubmitted for a period of at least one year from the date of this agreement."

The 1947-1948 Wage and Rules Movement

The next general wage and rules movement began in the following year, 1947. As in the 1945-1946 movement, the pattern for the settlement of this movement was set by an arbitration board pursuant to an arbitration agreement which stipulated that any wage increase awarded must be in the form of a uniform cents-per-hour increases in the rates of all classes of employees before the board. Again, as in 1946, several organizations sought preferred treatment and progressed their demands to an emergency board; and again the emergency board rejected the organizations' demands for preferred treatment and recommended that they accept the pattern settlement.

This movement started on March 25, 1947, when the organizations representing nonoperating employees served demands on the railroads for a wage increase of 20 cents per hour. The dispute was submitted to an arbitration board under an arbitration agreement which provided that any increase which might be granted must be a uniform cents-per-hour increase in basic rates, applicable to all employees before the board. The award, dated September 2, 1947, gave all nonoperating employees uniform increases of 15-1/2 cents per hour.

In the meantime, on June 20, 1947, the five organizations representing operating employees had served notices on the railroads for numerous rules changes, and on September 30, 1947, following the award of the arbitration board in the nonoperating employees' case, the same five organizations served a joint demand for a wage increase of 30 percent with a minimum money increase of $3.00 per basic day.

In November and December, 1947, two of the five organizations -- the Order of Railway Conductors and the Brotherhood of Railroad Trainmen -- reached agreements with the carriers in settlement of both their wage and rules demands. These settlement agreements provided that all employees covered would receive a 15½¢-per-hour increase in their basic rates -- which followed the pattern set by the arbitration board which had considered the demands of organizations representing nonoperating employees. The agreements also provided for certain rules changes, based upon the recommendations contained in the report of Emergency Board No. 33.

The Engineers, Firemen and Switchmen, however, refused to settle on the basis of the pattern, insisting on a more favored treatment of the employees that they represented. Their demands were considered by Emergency Board No. 57. In its report of March 27, 1948, the board pointed out (at page 6) that:

> ". . . The agreement entered into later between the ORC, the BRT, and the participating carriers followed the pattern set by the non-operating arbitration award."

The board then concluded that:

> "The right of each organization to bargain separately or in groups is fully recognized by this Board. Nevertheless the wage structure applicable to the employees represented by the five operating organizations must be considered as well as the traditional differentials between them and the nonoperating employees. Nor must it be forgotten that the present wage controversy is but the remainder of the 1947 joint wage movement by the five operating organizations.
>
> * * *
>
> "We, therefore, deem it essential, under these circumstances, to adhere to the 15-1/2 cents per hour pattern."

Settlement agreements were subsequently made on August 11, 1948 on the basis of the emergency board's recommendations. This settlement was substantially the same as the settlement entered into between the carriers and the Conductors and Trainmen in November and December, 1947. All employees covered by the agreements received a 15½-cents-per-hour increase in their basic rates. The agreements also provided for substantially the same rules changes as had been granted to the Conductors and Trainmen by the prior settlements with those organizations. The differences in the provisions of the two series of settlement agreements were largely those that were necessary in order to provide substantially uniform and nondiscriminatory treatment for the several classes of employees covered. These differences merely reflected differences in the rules governing the compensation and working conditions of the employees involved.

One development during the 1947-1948 movement is noteworthy as an illustration of the result of favored treatment to one group of employees. In the 1947 movement the organizations representing yard service employees contended, as they had in the previous movement, that the difference between the yard conductors' and yard brakemen's rates should be increased. Emergency Board No. 33 had recommended that the differential be increased from 52 cents to 85 cents (an increase of 33 cents per day) and the carriers agreed in the November 21, 1947 settlement agreement with the Trainmen to make this increase effective January 1, 1948. Immediately after this settlement was made, the organizations representing engine service employees cited this increase in the rates of yard conductors as grounds for demands for increases in the rates of pay of yard engineers and firemen -- contending that the 33-cent increase in the rates of yard conductors had created an inequity among the rates of pay of yard service employees.

In support of their demands, referred to Emergency Board No. 57, that yard engineers and firemen be paid local freight service rates, one of the witnesses called by these organizations, Engineer A. W. Telley, testified before the emergency board as follows (Tr. p. 6198):

> "I would like to make this observation for the Board's information: The carriers in their recent settlement with the ORC and BRT have consented to a revision of the existing differentials between the engineer and the yard conductor or yard foreman.
>
> "But the carriers cannot expect the engineers' organization to watch the ground supervisors' basic rate rise and alter the differential, unless the engine supervisor's rate also rises. If they expect this, they are in for a rude awakening."

This issue was later settled, pursuant to the recommendations of Emergency Board No. 57, by applying the table of through freight service rates to both engineers and firemen in yard service. The settlement agreement also provided that the wage rates of yard conductors represented by the Switchmen's Union of North America should be increased 33 cents per basic day, which followed the pattern set in the settlement with the Conductors and Trainmen.

As a result of the rules changes applicable to the yard operating employees, contained in these settlement agreements, their average basic rates were increased by about 3½¢

per hour. Detail with respect to these increases is presented in Appendix C to this exhibit. These increases, which became effective January 1, 1948, although small in amount, were destined to have an important effect upon future developments in this field -- as will appear infra.

Total general wage increases granted to operating and nonoperating employees effective during the 11 year period 1937 to 1947 (as shown in more detail in Appendix A) were as follows:

Road operating employees	58.0¢
Yard operating employees	58.0¢
Nonoperating employees	58.4¢

As late as December 12, 1955, Emergency Board No. 114 used these increases as a base for its application of what it called "the principle of uniformity of wage increases in the railroad industry" -- pursuant to which it undertook to apply the pattern principle in its review and reappraisal of all subsequent adjustments.

The 1948 Wage and 40-Hour Week Movement

The next general movement in the railroad industry, which also occurred during the year 1948, was complicated by the fact that some of the increases in hourly rates were made pursuant to the report of Emergency Board No. 66 in connection with the establishment of the 40-hour workweek for certain classes of nonoperating employees. This development was a disturbing factor in both labor negotiations and industry labor relations for the next seven years, as various organizations sought to regain what they felt to be position lost as a result of the 40-hour week settlement.

Sixteen organizations representing nonoperating employees started the 40-hour workweek movement in 1948 with proposals which were served on April 10. They requested a general wage increase of 25 cents per hour and a 5-day 40-hour workweek without reduction in take home pay. Shortly thereafter, on June 30, 1948, the Conductors and Trainmen filed demands for a wage increase of 25 per cent with a minimum of $2.50 per basic day. No change in the length of the workweek was requested.

At the time these demands were served, the carriers were still engaged in the previously described negotiations with the Engineers, Firemen and Switchmen involved in the 1947-1948 wage and rules movement. When that dispute with those three organizations was settled in accordance with the pattern, as heretofore described, it was agreed that these organizations might participate in the 1948 operating employees wage movement without filing formal requests pursuant to the provisions of the Railway Labor Act.

By agreements made with the Conductors and Trainmen dated October 4, 1948, and with the Engineers, Firemen and Switchmen dated November 12, 1948, a uniform third-round post war wage increase of 10 cents per hour was granted to the employees represented by those organizations, to become effective October 16, 1948.

The demands of the organizations representing nonoperating employees were referred to Emergency Board No. 66. That board refused to recommend the 10¢ general wage increase pattern for a majority of the employees that appeared before it. Instead, it recommended a 40 hour workweek, a 20% wage increase to maintain take-home pay, and a general wage increase of 7¢ per hour. A settlement agreement based upon the board's report was reached by the carriers and organizations involved on March 19, 1949. The 3¢ difference between the 10¢ general wage increase pattern and the 7¢ general wage increase granted to nonoperating employees was later found to be an "inequity", which the carriers were obliged to "correct", pursuant to the recommendations of Emergency Board No. 114.

Emergency Board No. 66 refused to extend its above described recommendations to members of the yardmasters craft that appeared before it. The board noted, at page 37 of its report, that the work performed by the yardmaster is "more in the nature of work done by operating employees." It found further that certain organizations representing yardmasters

> ". . . had their 1948 differences with the carriers settled by the same general 10¢ increase given to other operating groups."

and that

> "Unquestionably, if the yardmasters in our case get a reduced workweek it will have to be extended to all yardmasters. This would then create another inequity because the others have already settled for 10 cents, without the 40 hours. Under these circumstances the Board finds that no change in the workweek should be recommended, but that an increase of 10 cents an hour should be granted to them effective as of the same date on which the increase to other yardmasters was put into force."

As is apparent from the foregoing, these diverse results in the 1948 wage and 40-hour week movement temporarily disturbed the substantially uniform pattern which had theretofore characterized wage and rules adjustments applicable to both the operating and nonoperating groups of railroad employees. As a result, organizations that considered themselves aggrieved by these disparities immediately filed demands calculated to correct their supposed inequities.

The vitality and effect of the pattern principle of labor settlements in the railroad industry is most clearly demonstrated by these developments and those that followed.

The 1949-1950 40-Hour Week and Rules Movement

No sooner had the nonoperating employees been granted a 40-hour week with maintenance of take-home pay than organizations representing yard operating employees demanded like benefits. The 40-hour workweek agreement with the nonoperating employees was signed on March 19, 1949; but four days prior thereto, on March 15, 1949, the Order of Railway Conductors and the Brotherhood of Railroad Trainmen served demands for a 40-hour week for yard operating employees represented by those organizations. These demands were followed by similar demands by the Switchmen's Union in September, 1949, and by the Firemen in November, 1949. Still later, in January, 1950, the Engineers requested a 20-percent wage increase for yard engineers without any reduction in the workweek. The Railroad Yardmasters of America, who had been denied a 40-hour workweek by Emergency Board No. 66, also joined in this movement, demanding a reduced workweek and increases in pay.

The dispute growing out of the demands of Conductors and Trainmen was referred to Emergency Board No. 81. The three members of that board also constituted Emergency Boards Nos. 83 and 84, which considered the demands of the Switchmen's Union of North America and the Railroad Yardmasters of America, respectively.

These boards recommended a 40-hour workweek for yardmasters and yard operating employees, together with an increase of 18 cents per hour in their basic rates of pay. These increases were intended to give yardmasters and yard operating employees the same post depression cents per hour increases in their basic rates as had been received by non-operating employees -- including the 23.5¢ an hour increase received by the nonoperating employees when they converted to a 40 hour workweek. Emergency Board No. 81 noted that while total increases to both operating and nonoperating groups had been the same from 1937 through 1947, subsequent adjustments had given nonoperating employees increases of 17.4 cents per hour in excess of those received by yard operating employees. Thus, the 18 cents per hour which the board recommended would again even up the total increases.

In computing the increases that had been received by yard service employees and nonoperating employees, these emergency boards took into consideration the difference between the general wage increases received by those employees in 1948 and also the increases in rates of pay received by yard service employees resulting from the rules changes which had become effective January 1, 1948. These boards thus recognized (a) that the value of rules changes should be taken into consideration in the application of pattern settlements regardless of the subject matter of the demands, and (b) that the conflicting demands of the several groups and classes of employees involved could be reconciled, in view of the circumstances that existed at that time, only by maintaining cents-per-hour, across-the-board, relationships between the rates of the employees involved.

In its report to the President, Emergency Board No. 81 said:

> "The history of railroad wage negotiations is replete with evidence of the seriousness with which the various labor organizations regard firmly established wage relationships." (pp. 42-43)

The reports of Emergency Boards 83 and 84, dealing with the Switchmen's Union of North America and with the Railroad Yardmasters of America, also show the dominating influence of the pattern settlement principle. The demands of the Switchmen's Union of North America were dealt with in the report of Emergency Board No. 83. In its report the board said:

> ". . . the Board earnestly recommends the following:
>
> ". . . If no further hearings be held, the same treatment shall be accorded the employees represented by the Switchmen's Union of North America as may be accorded the yard employees represented by the Order of Railway Conductors and the Brotherhood of Railroad Trainmen in so far as the proposals for the 40-hour workweek and any other identical issues are concerned.
>
> "With regard to the issues which are not identical, but similar, adjustments of the same general character shall be made in so far as is possible within the framework of the requests. Different treatment cannot be accorded these groups of yard service employees without seriously disrupting established wage and rules relationships and generally disturbing labor relations on the railroads." (p. 12) (Emphasis supplied)

A similar approach was taken by Emergency Board No. 89, which a few months later considered the demands of Pullman conductors for a shorter workweek without any reduction in take-home pay. That board followed the pattern established by Emergency Boards 81, 83 and 84, stating at page 23 of its report, dated November 3, 1950, that:

> "The Board is fully aware of the great importance of maintaining wage relationships in the railroad industry on as equitable and stable a basis as is possible."

The organizations refused to accept the recommendations of Emergency Boards Nos. 81, 83 and 84. The Conductors and Trainmen called a strike to become effective on August 28, 1950. On August 27 the government seized control of the nations' railways and negotiations for the settlement of the dispute were transferred to the White House and conducted under the direction and auspices of a representative of the President. Before any agreement was reached, demands initiating another general wage increase movement were injected into the negotiations.

1950-1951 Wage and Rules Movement

Following the outbreak of hostilities in Korea, a series of wage increases were made generally effective in outside industries, and the subject of additional increases for railroad employees was brought into the White House negotiations.

All organizations representing operating employees were invited to participate in these negotiations. All had pending demands for wage increases and rules changes, including demands for a 5-day workweek. Also involved in these disputes were various proposals of the carriers for important and much needed rules changes.

The final settlements of these demands followed the principle and the substance of the recommendations of Emergency Boards Nos. 81, 83 and 84, and granted to all classes and crafts of employees additional general wage increases pursuant to a uniform pattern.

Agreement was first reached on September 21, 1950, with the Switchmen's Union of North America. This settlement was followed on November 2nd by a like agreement with the Railroad Yardmasters of America. These two settlements set a pattern which eventually disposed of all aspects of the pending disputes other than the issues raised by the demands for general wage increases. The general wage increase pattern was established by an agreement made with the organizations representing nonoperating employees dated March 1, 1951, in which the employees covered were granted a general wage increase of 12½¢ an hour.

With respect to the general wage increase issue (an issue not disposed of by the agreements with the Switchmen and Yardmasters) Mr. W. P. Kennedy, President of the Brotherhood of Railroad Trainmen testified in hearings before the Senate Committee on Labor and Public Welfare on March 22, 1951, that

> ". . . we have agreed on rates of pay. Take for instance . . . the 12-1/2 cents for

> the roadmen. We think the roadmen are entitled to more money than that. We think they would be, but what do we find? We find the nonoperating groups come in and make a settlement. The nonoperating groups represent a million men in the railroad industry. If a million men represented by 16 or 17 of these organizations can come in and make an agreement for 12-1/2 cents, I don't think that we should sit here and unnecessarily take further time trying to get any more money. I say that when that million men set the 12-1/2 cents, they set the pattern, and we will have to take it. We are agreeable to taking it . . . ." (Tr. pp. 1060-1061)

The agreement with the Brotherhood of Railroad Trainmen was made on May 25, 1951.

Pattern settlement agreements were eventually reached with the other organizations representing the railroad operating employees. However, these settlements were not made until after the Brotherhood of Locomotive Firemen and Enginemen had carried its dispute with the carriers to an emergency board.

Demands of the Brotherhood of Locomotive Firemen and Enginemen for favored treatment were referred to Emergency Board No. 97 which made its report to the President on Janurary 25, 1952. That board recommended that the organization accept the 1950-1951 wage and rules pattern. In an explanation of this recommendation the board stated on page 26 of its report:

> "....it is well known to students of labor relations and labor economics that the most important inequities are those felt and suffered closest to home. That is, workmen have the

> keenest sense of injustice in respect to what have come to be known as intra-plant or intra-firm inequities -- unreasonable or unjustified wage rate differences between the rates in effect for a given job or craft in relation to the rates being paid for other jobs or occupations, particularly those that are closely related in terms of physical proximity or in terms of connections in the production process."

On May 23, 1952, the Engineers, Firemen and Conductors concluded settlements with the carriers in accordance with the pattern established by the above-described reports and agreements.

A detailed discussion of the terms and provisions of the pattern agreements that terminated the 1950-1951 wage and rules movement would add many pages to the text of this exhibit; however, the provisions of those agreements that are material to the subject matter here under consideration may be summarized as follows:

1. All of the agreements granted to all classes and crafts of railroad employees a general wage increase of 12½¢ an hour (see Appendix A).

2. All of the agreements contained wage escalation clauses providing for further wage adjustments to be based upon changes in the Consumers Price Index. As shown in Appendix A, 9 uniform across-the-board adjustments in the rates of pay of all classes and crafts of railroad employees were made pursuant to these provisions during the period April 1, 1951 through October 1, 1953.

3. All agreements contained the same provision for a moratorium barring proposals for changes in rates of pay through September 30, 1953. The agreements covering operating employees also barred proposals for changes in rules and working conditions. These moratorium provisions are discussed in more detail, infra.

4. All of the agreements granted to yard operating employees an optional 5-day workweek.

5. All classes of yard operating employees were granted a preconversion 5-day workweek wage adjustment of 14½¢ an hour, and an additional increase of 4¢ an hour to become effective when the 5-day workweek was actually adopted (see Appendix B).

6. The final settlements covering operating employees provided for numerous rules changes. These provisions differed in the different agreements only in the respects necessary to provide uniform and nondiscriminatory treatment for the several classes of employees involved. Certain differences between the parties relating to the rules issues were to be settled by arbitration; but the final settlements reached with respect to such issues were as uniform in their scope and effect as

differences in the rules governing the compensation and working conditions of the several classes of employees involved would permit.

The moratorium provisions written into the agreements with the organizations representing operating employees were all substantially the same as the following paragraph from the agreement with the Brotherhood of Railroad Trainmen, dated May 25, 1951:

> "No proposals for changes in rates of pay, rules or working conditions will be initiated or progressed by the employees against any carrier or by any carrier against its employees, parties hereto, within a period of three years from October 1, 1950, except such proposals for changes in rules or working conditions which may have been initiated prior to June 1, 1950. Provided, however, that if government wage stabilization policy permits so-called annual improvement wage increases, the parties may meet with the President of the United States, or such other person as he may designate, on or after July 1, 1952, to discuss whether or not further wage adjustments for employes covered by this agreement are justified, in addition to increases received under the cost-of-living formula. At the request of either party for such a meeting, the President or his representative shall fix the time and place for such a meeting. The President or his representative and the parties may secure information from the wage stabilization authorities or other government agencies. If the parties are unable to agree at such conferences whether or not further wage adjustments are justified they shall ask the President of the United States to appoint a referee who shall sit with them and consider all pertinent information, and decide promptly whether further wage increases are justified and, if so, what such increases should be, and the effective date thereof. The carrier representatives shall have one vote, the employe representatives shall have one vote and the referee shall have one vote.

> "The foregoing will not debar management and committees on individual railroads from mutually agreeing upon changes in rates, rules and working conditions of employees covered by this agreement."

The agreement with the organizations representing the non-operating employees, dated March 1, 1951, provided that:

> "After the date of this agreement no proposals for changes in rates of pay will be initiated by the employees against any carrier or by any carrier against its employes, parties hereto, prior to October 1, 1953. Provided, however, that if government wage stabilization policy permits so-called annual improvement wage increases, the parties may meet with the President of the United States, or such other person as he may designate, on or after July 1, 1952, to discuss whether or not further wage adjustments for employes covered by this agreement were justified, in addition to increases received under the cost-of-living formula. At the request of either party for such a meeting, the President or his representative shall fix the time and place for such a meeting. The President or his representative and the parties may secure information from the wage stabilization authorities or other government agencies. If the parties are unable to agree at such conferences whether or not further wage adjustments are justified they shall ask the President of the United States to appoint a referee who shall sit with them and consider all pertinent information, and decide promptly whether further wage increases are justified and, if so, what such increases should be, and the effective date thereof. The carrier representatives shall have one vote, the employe representatives shall have one vote and the referee shall have one vote.
>
> Note: This Article III is not intended to prevent adjustments in the rates of individual positions."

This provision, written into the agreement with the organizations representing nonoperating employees, did not refer to proposals for changes in rules -- in that those organizations had no rules demands pending at the time, and represented to the carriers that none were then contemplated.

One further development during this movement is of interest in connection with the principle of pattern settlements. In the November 21, 1947 agreement with the Brotherhood of Railroad Trainmen, yard service employees represented by that organization had been granted a daily earnings guarantee that exceeded their basic daily rates by 20¢. The same guarantee rule had been offered to the Switchmen's Union of North America; but that organization had declined the offer, insisting upon an increase in daily rates in lieu of a guarantee rule. The dispute had ultimately been settled by a 15¢ increase in the basic daily rates of employees represented by the Swtichmen's Union.

This small difference in the agreements made with the two organizations representing yard service employees was strongly resented by the employees and by the representatives of the organizations. In the 1950-1951 pattern settlement agreements, uniformity was restored by a 5¢ increase in the basic daily rates of yard service employees represented by the Switchmen, and by incorporating the daily earnings minima into the basic rates of yard service employees represented by the Trainmen. The differences in the earlier contracts thus cost the carriers an increase of approximately 5¢ per day in the rates of pay of the employees involved; however, as stated by

Emergency Board No. 81, this was "a relatively small price to pay for employee goodwill in the instant matter". (Report p. 27)

When the 1950-1951 agreements became effective the total post depression general increases in the hourly rates of railroad operating and nonoperating employees were:

Road operating employees ...	80.5¢
Yard operating employees ...	80.5¢
Nonoperating employees ...	77.9¢

The lesser increases received by nonoperating employees resulted from the refusal of Emergency Board No. 66 to extend the full 10¢ third round of post war pattern wage increases to this group. As has already been stated, this supposed "inequity" was later to be "corrected". Total post depression increases in the basic hourly rates of these classes of employees (including 40 hour workweek adjustments increases resulting from rules changes) were:

Road operating employees ...	80.5¢
Yard operating employees ...	102.5¢
Nonoperating employees ...	101.4¢

All classes of operating and nonoperating employees had also been successful, in separate movements, in obtaining two weeks vacation with pay; and as heretofore stated, all classes and crafts were to receive nine uniform across-the-board adjustments in their rates of pay (adding a new sum of 13¢ per hour to their basic rates) under the cost-of-living escalator provisions of the 1950-1951 agreements.

It is obvious that "pattern collective bargaining" or "agreement by pattern" had resulted in pattern settlements which were acceptable only because all classes and crafts received the same, or equivalent, changes or adjustments in wage rates, rules and working conditions.

The 1952-1953 Productivity Case

In the 1952-1953 Productivity Case the railway labor organizations representing both operating and nonoperating employees asked for and obtained a further uniform cents-per-hour increases in the basic rates of the employees that they represented.

Although contracts settling the 1950-51 movement contained a moratorium provision prohibiting further wage and rules demands until October 1, 1953, those agreements also provided "that if government wage stabilization policy permits so-called improvement wage increases", the question of "whether or not further wage increases for the employees covered by this agreement are justified" and, "if so, what such increases should be", would be referred to a referee "at the request of either party." In June of 1952 both the operating and nonoperating organizations announced their intention to invoke this reopening clause, and Mr. Paul Guthrie was appointed by the President of the United States to determine what if any further increases were justified. All five organizations representing operating employees joined with the organizations representing nonoperating employees in handling the proceeding before Mr. Guthrie and all requested that an improvement factor increase be applied uniformly in cents per hour to all wage rates of the employees involved. As a result of the proceedings which followed, a uniform increase of 4 cents per hour, effective December 1, 1952, was awarded on March 19, 1953, to all of the employees covered by the award.

The 1953-1954 Wage, Rules and Fringe Benefits Movement

Following the expiration, on October 1, 1953, of the moratorium on wage and rule demands, the five organizations representing operating employees (and a score of other organizations) filed notices containing many and varied demands covering a wide variety of subjects. Among the demands served by some or all of the organizations representing operating employees were demands for general wage increases, holiday pay, sick leave, increased vacation benefits, guaranteed earnings, changes in many basic pay rules, and other rules changes.

Notwithstanding the many variations in the scope and subject matter of these notices, the carriers in 1953 and 1954 negotiated uniform and nondiscriminatory settlement agreements with all of the organizations involved. These settlements followed the pattern established by the first agreement --

an agreement with the Brotherhood of Railroad Trainmen dated December 16, 1953 providing for a 5¢ an hour increase in basic rates, a third week of vacation after 15 years of service, and other changes in the rules relating to vacation benefits.

On January 9, 1954, soon after the settlement with the Brotherhood of Railroad Trainmen, an identical settlement was made with the Brotherhood of Locomotive Firemen and Enginemen. Settlements following this same pattern were subsequently made with the other organizations representing operating employees; but this result was not accomplished without some difficulty -- involving hearings before two arbitration boards and one emergency board.

The Brotherhood of Locomotive Engineers refused to accept any part of the pattern settlement but agreed to refer their demands for greater wage increases to an arbitration board. That board (Arbitration Board 192) filed its award on August 17, 1954. The award denied the demands of the Brotherhood and extended the pattern settlement to the employees that it represented. A pattern settlement agreement was signed by the organization and the carriers on August 17, 1954.

The Order of Railway Conductors and Brakemen, in an agreement dated February 5, 1954, accepted all of the benefits of the pattern settlement but insisted upon a supplemental memorandum providing that its pattern settlement agreement did not dispose of its demands for graduated rates of pay for train and yard service employees based upon the weight on drivers of the locomotives with which the employees worked. This demand was referred to Emergency Board No. 109. That board recommended that the demand be rejected and withdrawn. On page 31 of its report to the President, dated March 25, 1955, Emergency Board No. 109 stated that

> "Every wage rate, differential, element of compensation, and pay rule for an operating classification appears to have a close relationship to the wage structure of other operating classifications. Operating employees work in close proximity, frequently away from continuing supervision; the road crews are paid on a mileage basis; under the seniority and promotion rules the same employee may work from day to day in different classifications and in different types of service; employees hold membership in unions with overlapping jurisdiction. The result is that all operating employees are particularly sensitive to changes in the wage structure of other operating employees. (Carriers' Ex. 33, pp. 16-22; Tr. 2180-90). Labor costs of competing carriers are likewise sensitive to differential pay rules.
>
> "One consequence of this highly interdependent wage structure for operating classifications is that the attempt to change one rate or pay rule may generate more trouble and dissatisfaction than it cures. (Tr. 2364).
>
> "Piecemeal adjustments in the wage rate structure tend to generate a succession of attempts for further modifications and patches on the rate structure. Each of these attempted adjustments is cumbersome and time-consuming under the protracted processes of railway labor relations. Moreover, an initial change in wage rate relationships may not persist as subsequent movements restore the old relationship. A recognized need to change the wage structure may not eventuate as a consequence of conflicting piecemeal adjustments. An illustration is provided by the differential between rates for yard conductors and brakemen in the 1947-48 wage movement. (Carriers' Ex. 33, pp. 48-49)."

The Switchmen's Union of North America also accepted the benefits of the pattern settlement in an agreement dated April 22, 1954; but (borrowing a page from the Conductor's book) the Switchmen insisted upon a supplemental memorandum providing that its pattern settlement would not dispose of its demands for an increase in the differential between the rates of pay of yard foremen and yard helpers. This demand was submitted to Arbitration Board No. 201, pursuant to an agreement between the parties dated November 29, 1954.

Arbitration Board No. 201 filed its award on March 1, 1955. The award denied the demand for an increase in the foreman-helper wage differential. The board stated, in an opinion filed by the Chairman that

> "... piecemeal adjustment of any of these differentials on the basis of inadequate investigation carries serious threat of creating even more inequities ... historical or traditional differential patterns should not be altered on a piecemeal basis without a strong showing of need therefor." (Opinion, pp. 12-13)
>
> "... all general wage increases since 1936 have been granted across-the-board. This was not an accident, nor was it forced upon the industry. Rather, it occurred through choice of employers and employees alike. That it was thus premeditated is indicated by the fact that numerous arbitration boards were instructed by the parties to grant any awarded wage increase on an across-the-board rather than percentage basis ... just as percentage differentials were reduced on a premeditated industry-wide basis, so should they be restored if relative percentage differentials are to be restored." (Opinion.pp. 15-16).

Thus, the demands of the organizations representing operating employees in the 1953-1954 wage rules and fringe benefit movement were settled, through "pattern collective bargaining" or "agreement by pattern", as had all previous wage and rules movements initiated by these organizations.

Identical settlements were made with some 20 organizations representing carrier employees. However, the settlements with fifteen organizations representing nonoperating employees differed from the pattern settlements in several important respects, as will now be explained.

The organizations representing nonoperating employees served no demands upon the carriers on October 1, 1953, as did all organizations representing other classes and crafts of railroad employees. The nonoperating employees elected, instead, to pursue demands served on May 22, 1953 for increased vacation benefits, paid holidays, premium pay for Sunday and holiday work, free health and welfare insurance and free contract transportation. These demands were referred to Emergency Board No. 106 which made its report to the President under date of May 15, 1954.

The carriers urged Emergency Board No. 106 to deny the May 22, 1953 demands of the organizations that appeared before it, and to recommend in lieu thereof acceptance of the pattern settlement covering other classes and crafts. But Emergency Board 106 did not consider the demands of the organizations representing nonoperating employees to be a part of the wage and rules movement initiated by the October 1, 1953 demands of other organizations; and, while it recommended that the vacation benefits provided by the pattern settlement be extended to nonoperating employees, it also recommended a health and welfare insurance plan and holiday pay for the employees that appeared before it.

It appears from the board's report that it was intended that the cost to the carriers of the settlement recommended by that board was to be the same as the estimated cost of the pattern settlements with the organizations representing operating employees. This principle of "pattern costs" was to have a very important influence in the 1954-1955 wage, rules and fringe benefits movement that followed.

The May 1955 Inter-Craft Wage Rate Adjustments

The 1954-1955 wage, rules and fringe benefits movement was prefaced by settlements with the organizations representing train service employees (the Order of Railway Conductors and Brakemen and the Brotherhood of Railroad Trainmen) disposing of the long-standing complaints of these organizations that the employees that they represented had not been adequately compensated for increases in the length of trains and the use of heavier power. Since 1949 these organizations had complained that engineers and firemen had received increases in their earnings and rates as a result of the introduction of heavier power (under rules graduating enginemen's rates on the basis of the weight on the drivers of the locomotives on which they are used) which had not been received by conductors and trainmen. The issue was at length brought to a head by threatened strike action on the part of the Order of Railway Conductors and Brakemen in the spring of 1955.

The controversy was settled by agreements between carriers and the organizations involved, signed in May of 1955, which provided for a 2.5¢ per hour increase in the rates of pay of passenger conductors and trainmen, and which established a schedule of addenda to the basic rates of pay of freight conductors and trainmen graduated upon the basis of the length of the trains on which they are used. The increases in the hourly rates of pay provided by these agreements, for each class of employee covered, measured by the average lengths of trains during the three months ending September 30, 1955, are shown in column 3 of Appendix C to this exhibit.

The 1954-1955 Wage, Rule and Fringe Benefits Movement

The 1954-1955 Wage, Rule and Fringe Benefits Movement in the railroad industry was initiated by the Brotherhood of Locomotive Firemen and Enginemen with a notice dated

July 1, 1954 containing a demand for increases in the rates of pay of yard service employees under a 5 day workweek schedule, and a demand for guaranteed minimum earnings for employees in road service. Following the service of these demands, all of the other organizations representing railroad employees filed demands for wage increases, fringe benefits and rules changes. As in the 1953-1954 movement, the demands differed materially in their purported purposes and scope and covered a wide variety of subjects. It was obvious, however, to all parties involved, that the movement could be brought to rest only through "pattern collective bargaining" or "agreement by pattern" and the emergency boards that participated in the handling of this movement undertook not only to apply the pattern principle in disposing of the issues immediately involved, but to review the entire history of the post depression wage and rules settlements and "even up the score" on the basis of what was referred to as "the principle of uniformity of wage increases in the railroad industry."

The July 1, 1954 demands of the Brotherhood of Locomotive Firemen and Enginemen were referred to Emergency Board No. 110 which made its report to the President on July 30, 1955. That board found that the existing agreements, which granted to yard operating employees a 5 day workweek wage increase of 18.5¢ per hour, created an inequity as between yard operating employees and nonoperating employees, because of the fact that the nonoperating employees had received a 20% increase in their September, 1948 rates of pay when they converted to a 40 hour week. The board pointed out that "almost precise equality of treatment on general wage increases among classes of railroad employees has been common" and stated

> "... the Board is convinced that the inequities in the plan for conversion of the yard service engine employees as compared with the nonoperating employees can best be removed by recognizing the conversion factor of 20 percent applied to basic daily rates immediately prior to October of 1948, and by crediting the down payment toward conversion of 14½ cents per hour ... the conclusions of the Board indicated above would place the yard service engine employees in the same relative position as the nonoperating employees insofar as the conversion factor is concerned..." (Report p. 38.)
>
> "It believes the above conclusions and the recommendations which are based on them are as equitable as can be reached in comparing the conversion of yard service engine employees with the conversion of the nonoperating employees." (Report p. 40.)

It will be observed that Emergency Board No. 110 based its recommendation entirely upon the principle of pattern settlements, but disagreed with Emergency Boards No. 81, 83, 84 and 97 as to what was the true pattern of 5 day workweek wage adjustments established by the March 19, 1949 agreement with the organizations representing nonoperating employees.

Following the report of Emergency Board No. 110 all of the pending demands of the organizations representing operating employees (including demands for general wage increases, 5 day workweek wage adjustments, holiday and welfare plans, and rules changes) were disposed of in agreements containing the following provisions:

1. The same general wage increase was granted to all classes and crafts of operating employees, namely, 6.5¢ per hour. This general wage increase was uniformly applied to all classes of train and yard service employees; however, all engine service employees did not receive exactly the same cents per hour increases. The Brotherhood of Locomotive Engineers asked that the 6.5¢ increase granted to the employees that it represents be extended to the various classes covered on a percentage basis. This resulted in somewhat greater increases in the higher basic rates than in the lower rates. The Brotherhood of Locomotive Firemen and Enginemen asked that the 6.5¢ an hour increase granted to the employees that it represents be applied as follows: (a) 4¢ to road firemen, and (b) 9¢ to yard firemen and hostlers (part of such increase to become effective only upon conversion to a 5-day workweek). The circumstances which caused the organizations representing engine service employees to request these varying distributions of the 6.5¢ an hour general wage increase are not material here;

however, it is material to keep in mind that the averages of the increases received by the engine service employees were, for each craft, 6.5¢ an hour -- identical with the increases received by train and yard service employees.

2. All classes and crafts of railroad operating employees were granted a further increase of 4¢ per hour in their basic rates of pay which, as was specified in the contracts, was "in lieu of the offer of the carriers made through the Carriers' Conference Committees ...'to set up a medical and hospital insurance plan for employees represented ... similar to that now in effect for Non-Operating Employees, the cost of such plan to be not in excess of $6.80 per month which will be borne by the carriers.'"

3. All classes of yard operating employees were granted further 5 day workweek wage adjustments which brought their total conversion increases up to 20% of their average hourly rates of pay effective in September 1948.

4. All classes of engineers and all classes of road conductors received a 2% so-called "differential wage inequity increase." This increase was granted to the senior operating crafts upon

the insistence of the organizations that prior across-the-board wage increases had failed to take into account the supposedly greater skills and responsibilities required of these employees in the performance of their duties.

5. All classes of road operating employees were granted daily earnings guarantees.

6. All other demands of the organizations were withdrawn.

7. All agreements contain a moratorium provision substantially the same as the following paragraph from the agreement with the Brotherhood of Railroad Trainmen dated October 4, 1955:

> "It is hereby agreed that no proposals for changes in rules requiring the creation or elimination of, or increase or decrease in, the payment of arbitraries will be initiated or pending proposals progressed before June 30, 1956, and shall not be initiated or progressed except upon 30 days' notice thereafter given, provided, however, this paragraph shall not be construed to prohibit adjustments of contracts by mutual agreement on individual railroads to meet local conditions during the period of this moratorium."

That the pattern principle was the controlling factor in the negotiations culminating in these wage settlements is apparent. However, that principle assumed even greater importance in the disposition of the demands of the organizations representing the nonoperating employees. These organizations refused to accept the pattern settlement and their demands were referred to Emergency Board No. 114. These demands included a demand for 25¢ an hour wage increase and a demand that the carriers assume the full cost of the hospital, medical and surgical insurance plan covering the employees represented by the organizations. The recommendations of the emergency board, contained in its report to the President dated December 12, 1950, were made the basis of the settlement agreements executed by the parties under date of December 21, 1955.

The recommendations of Emergency Board No. 114 adhered strictly to the pattern principle. The board recommended that the carriers assume the full cost of the health and welfare plan (including 2¢ per hour previously paid by the carriers and 2¢ per hour paid by the employees) because of the 4¢ increase in hourly rates granted operating employees "in lieu of the offer of the carriers ... to set up a medical and hospital insurance plan ... similar to that now in effect for nonoperating employees." The board recommended a 14.5¢ increase in the hourly rates of nonoperating employees based upon what it described as "the principle of uniformity of wage increases in the railroad industry." The extent to which the pattern principle controlled the recommendations of the board can perhaps best be shown by the following excerpts from its report to the President, in which the board reviewed the history and results of all prior post depression national wage and rules movements. The board said:

> The record presented in this case is replete with evidence of the parties' conscious attempts, in more than a decade and a half beginning in 1937, to equalize wage rate increases between nonoperating and operating employees. This principle has been succinctly expressed by the Carriers' Counsel in this case in the following statement:
>
> > ".... it has been the policy of the carriers for many years to offer uniform and nondiscriminatory treatment to all classes and crafts of railroad employees in matters involving general wage adjustments, and in all other matters with respect to which all classes and crafts were similarly situated, ..."
>
> In characterizing its 1955 offer of a 10½ cents per hour wage increase made to its nonoperating employees in the present case, an offer subsequently withdrawn by the Carriers because it was not accepted under its terms by October 31, 1955, the Carriers said:
>
> > ".... this offer was consistent with and in fact was made pursuant to the long established policy of the carriers to grant uniform and nondiscriminatory general wage increases to all classes of railroad employees."
>
> The evidence presented by the Organizations and the Carriers includes many past instances in which the above policy was followed in determining the amount of wage increase to be granted those crafts of employees which were the last ones on which agreement was reached at the end of particular wage movements. While the timing of these wage increases has varied, and special adjustments have sometimes been granted concurrently to specific crafts for particular reasons, the eventual result that has been attained thus far (since wage movements in the

> railroad industry became national in scope beginning in 1937) has been a like total amount of general wage increases for each craft and groups of crafts, operating and nonoperating alike. The results of the application of this principle are reflected in the table presented in a prior part of Section III of this report. (pp. 29-30)

The table referred to by the board has been reproduced as Appendix E to this exhibit. The board continued

> Application of the principle of uniform wage increases for all classes of railroad employees has not taken the form of a blind following of precedent as soon as the wage increase for one craft has been established at the beginning of any particular wage movement. Emergency Board No. 66, for instance, noted that it would not follow the principle of uniformity of wage changes when it was concerned with the nonoperating employees who represented the large bulk of the industry's employees and was faced with a wage increase accepted by the minority of the industry's employees in the operating crafts. It noted, therefore, that it would not limit its 1948 recommendation in that case to the institution of a uniform hourly wage increase equivalent to that granted the minority of the railroad employees in the operating crafts and thus cut off the nonoperating employees from attaining the 40-hour work week goal to which it deemed them otherwise entitled. In adopting the recommendations of that Emergency Board the parties deviated from the principle of uniform wage rate increases between various crafts of railroad employees (the operating employees received 10 cents per hour in 1948 and the nonoperating employees received 7 cents per hour) as a means of providing the Carriers with a cushion to soften the impact of an increase of 20 per cent in 1948 base rates connected with the September 1949 conversion of such employees to a 40-hour week.
>
> The 1949-1951 wage movements, when finally consummated after negotiations that

extended for some crafts to May 1952, led to the adoption of a wage increase of 12.5 cents per hour for each group of railroad crafts. These several movements were complicated, insofar as the yard operating employees were concerned, by wage increases that were negotiated in major part to compensate for the introduction of 40-hour work weeks for those crafts. The Carriers and the several Organizations representing these employees have finally eliminated these complexities by agreeing in their October 1955 negotiations that 14.5 cents per hour of the 27 cents per hour wage increase granted the yard operating employees in the 1950-1952 period took the form of a prepayment for conversion to a 40-hour work week (as found by Emergency Board No. 110). They also agreed that the residual amount of wage increase granted those employees (12.5 cents per hour) as an across-the-board increase, that had no connection with conversion to a 40-hour week, was the same as granted in that period to the nonoperating and road operating employees. Thus the parties have themselves made computations, on an historical basis in this instance, to support the principle of uniform wage increases for all crafts of railroad employees.

The cost-of-living increases between April 1951 and October 1953 have likewise been uniform for all crafts. They have totalled 13 cents per hour and have uniformly been incorporated into the base rates for each craft following the termination of the escalator clauses in each agreement.

The December 1952 Guthrie Arbitration Award, though not concerned with all of the criteria that customarily are considered as part of a general wage case, also recognized the propriety of instituting a uniform wage increase for all crafts of railroad employees. In this case the Award was for a 4 cent per hour improvement factor for all employees.

Other apparent deviations from the principle of uniform wage changes for all crafts of railroad employees have been made from time to time but in each instance has been caused by an aspect of change in the method of wage payment for such craft, or for some other comparable reason. For instance, graduated rates of pay (on the basis of locomotive weight on drivers, train length, etc.)

> have been adopted for several crafts to take the place of former single rate payment. Differential adjustments for Engineers and Yard Conductors have also been established. In each specialized case the wage adjustment, which often coincided in time with an across-the-board wage increase, reflected an element of skill, effort, responsibility, hazard or working conditions of the particular craft of employees affected. But, in each such case the principle of uniform across-the-board wage increases has been recognized and followed by the parties. (pp. 30-32)

Emergency Board No. 114 was here referring to the post depression inter-craft wage rate adjustments that are shown in the table which has been attached to this exhibit and marked Appendix C. The statement of the board that "in each such case the principle of uniform across-the-board wage increases has been recognized and followed by the parties" apparently refers to the fact that in making the inter-craft adjustments all classes and crafts similarly situated received uniform treatment -- that is, all passenger service employees received a 2.5¢ an hour train length wage increase, effective June 16, 1955; all freight train service employees received the same schedule of train length addenda to their basic rates, also effective June 16, 1955; and all classes and crafts of senior road service employees (engineers and conductors) received a 2% increase in their basic rates, effective October 1, 1955. These inter-craft wage adjustments are discussed on pages 61 and 62 of this exhibit.

Emergency Board No. 114 then commented upon the irregular distribution among the several classes of firemen of the 6.5¢ general wage increase that became effective October 1, 1955 (which is discussed on page 65 of this exhibit) as follows:

> The October 1955 wage increase for yard and road firemen might be considered as a departure from the principle of uniform wage increases for all crafts of railroad employees, at least to the extent that the yard service employees represented by the BLF&E have received a slightly higher wage increase in 1955 than the road service employees represented by that organization. However, the October 14, 1955 Agreement with the BLF&E shows this variation was connected with the conversion of the yard service employees to a 40-hour work week (the road service employees are not concerned with a 40-hour work week) and that the whole was stated to be the equivalent of a 10½ cent per hour across-the-board wage increase. Consequently the Board in this case does not construe the variation in treatment of yard service employees in connection with the October 1955 wage increase as a departure from the principle of uniform wage increases for all classes of railroad employees.
>
> The record in this case, then, clearly supports the conclusion that, except for the very recent wage increase history of the nonoperating employees, uniform wage rate increases for all crafts of railroad employees has been the practice since national wage movements began in the railroad industry in 1937. Wage rate relationships have been consistently on an intra-industry basis since that date. (pp. 32-33)

After this summary of the post depression wage adjustments in the railroad industry, Emergency Board No. 114 concluded that the wage issue before it should be resolved on the basis of what it referred to as "the principle of uniformity of wage increases in the railroad industry." In this connection the board said:

> The Board concludes that the principles expressed in the preceding sub-section of this report represent the appropriate basis for its recommendations of settlement of this wage issue. The principle of uniformity of wage increases between the several crafts of railroad employees should be applied in this case, with a "catch up" for two situations in which the nonoperating employees have fallen behind the general across-the-board wage increases granted to other railroad employees since 1948. A "catch up" for these two situations added to the general across-the-board wage increase applicable to most other railroad employees as of October 1, 1955, would result in an equalization of wage increases between nonoperating and operating employees for the 1948-1955 period, and the Board would consider the principle of uniform wage rate increases to be fulfilled thereby.
>
> The first point at which the principle of uniformity of wage increases has been deviated from insofar as nonoperating employees are concerned in the 1948-1955 period was the 1948 wage increase. The 7 cents per hour wage increase the nonoperating employees received in 1948, as previously noted, was set at 3 cents per hour less than the 10 cents per hour wage increase for operating employees as a partial offset to the wage cost impact caused by the addition of 20 per cent of base rates to compensate nonoperating employees for losses they would otherwise have experienced in changing from 48-hour to 40-hour weeks in September, 1949. (p. 33)

The board here has reference to the third round of post war wage increases which is discussed on pages 39 to 42 of this exhibit under the caption "The 1948 Wage and 40-Hour week Movement." Reference has already been made to the 3¢ difference between the general wage increases received by railroad operating and nonoperating employees during this movement -- and to the fact that this difference was later to be cited as an "inequity" and "corrected" on the basis of the "principle of uniformity of wage increases in the railroad industry." (See pages 41 and 54, supra) This, Emergency Board No. 114 proceeded to do, stating

> This departure from the principle of uniformity of wage rate increases was mutually agreed upon for reasons deemed by the parties as sound and sufficient at the time of the conversion. Thus there could be no supportable contention that any inequity occurred until some other craft or group of crafts would convert to a 40-hour week without the loss of 3 cents per hour in a then pending uniform wage increase. If conversion to a 40-hour work week in some craft or crafts would be accomplished by the same offset of a pending uniform wage increase there would be no reason to conclude that the nonoperating employees suffered any inequity in relation to the employees in that craft.
>
> But the final consummation of the negotiations for the wage adjustments to accompany the conversion to 40-hour work weeks by the several yard operating crafts (completed in October 1955) did not result in any offset of 3 cents per hour against pending uniform wage adjustments for such crafts. Of course, in the period between the 1951 or 1952 dates on which some employees in the yard operating crafts converted to 40-hour work weeks and the October 1, 1955 date on which the final conversion wage factor was negotiated for such crafts, the employees in the yard operating crafts who had been on 40-hour weeks had worked under a wage inequity as compared with the nonoperating employees because their original conversion factor was considerably below the conversion factor granted to nonoperating employees. But, as of October 1, 1955, that inequity was removed and the full across-the-board wage increases enjoyed by all other railroad employees in the 1950-1952 period, together with the full conversion adjustment granted the nonoperating employees, were made available to the yard service employees upon conversion to a 40-hour work week.

> Since the 3 cents per hour conversion wage offset of the nonoperating employees was not finally made applicable to the yard operating employees, the Board here concludes that the nonoperating employees should now be entitled to a "catch up" of the 3 cents per hour conversion wage offset they experienced in 1948, but which did not become an actual wage inequity until October 1, 1955. (pp. 33-34)

Particular attention is directed to the fact that Emergency Board No. 114 followed and approved the principles and reasoning upon which Emergency Board No. 110 based its report and recommendations. Both boards found that the 18½¢ 5-day work week conversion wage increase granted to yard service employees in the 1950-1951 pattern settlement agreements did not, in fact, follow the pattern set by Emergency Board No. 66, and thus created an inequity adversely affecting the yard operating crafts as compared with nonoperating employees. Both boards found that the principle of pattern settlements required total five day work week adjustments in the rates of pay of all classes and crafts of employees equal to 20% of their hourly rates during the month of September, 1948. The findings and recommendations of Emergency Board No. 110 on this subject are discussed on pages 63 and 64, _supra_. The pattern of five day work week adjustments that resulted from the agreements that were based upon these findings and recommendations are shown in Appendix B.

In addition to the 3¢ wage increase, which Emergency Board No. 114 justified on the basis indicated in the above quoted paragraphs of its report, an additional general wage increase of 11.5¢ was recommended for nonoperating employees because railroad operating employees had received two general wage increases totaling 11.5¢ (effective December 16, 1953 and October 1, 1955 as shown in Appendix A to this exhibit) which had not yet been extended to nonoperating employees. The board said

> The second situation in the wage change pattern for nonoperating employees that has caused them to suffer an inequity as contrasted to the operating employees was the wage increase of 5 cents per hour granted to operating employees in December 1953. The Organizations representing the nonoperating employees had directed their initial demands that year to rules changes in such matters as more extended vacations, holidays with pay, premium pay for Sunday work as such, a health and welfare plan, and increased free transportation. Delays in the processing of these demands caused the 1953 wage settlements for operating employees (in the amount of 5 cents per hour) to be consummated before the nonoperating employees demands for "fringes" could be resolved. As a consequence the operating employees received an across-the-board wage increase of 5 cents per hour while the nonoperating employees received no flat wage increase. While the nonoperating employees did receive a number of paid holidays as of August 1954, (estimated to cost the Carriers an average of 3½ cents per hour), and were likewise covered by a jointly financed health and welfare plan as of January 1955 (at a cost of 2 cents per hour for the Carriers and 2 cents per hour for each employee covered), their wage rates were not increased in the 1953-1954 period. Insofar as the principle of uniform wage increases for all crafts of railroad employees is concerned, then, the nonoperating employees experienced an inequity of 5 cents per hour as of December 1953. That inequity, however, has been offset to the extent of 2 cents per hour for the reason next noted.

The October 1955 wage settlements consummated for the several crafts of operating employees all include understandings to the effect that 4 cents per hour of the 1955 wage increase is "in lieu of" a Carrier-financed health and welfare plan not now applicable to such employees. The Agreements embodying these wage increases all record a supplementary understanding that in the event a Carrier-financed health and welfare plan is later negotiated this 4 cents per hour wage increase (or such portion thereof as may be required to finance a plan adopted by mutual agreement) will be automatically converted for the payment of such plan. Thus the Carriers and operating Organizations clearly substituted a 1955 wage increase in settlement of the health and welfare issue then pending between them. When they did so, and set the substitute wage increase figure at 4 cents per hour for operating employees, the 2 cents per hour cost to the Carriers of the present jointly financed health and welfare plan for nonoperating employees likewise took on a wage increase connotation insofar as the principle of uniformity of wage increases is concerned. (pp. 34-36)

The basic wage increases granted by the Carriers to the operating employees in the 1953 and 1955 wage movements have totalled 15.5 cents per hour (5 cents as of December 1953 and 10.5 cents as of October 1, 1955.) The 2 cents per hour cost of the 1954 health and welfare plan is the only equivalent wage increase received thus far by the nonoperating employees in the 1953 and 1955 wage movements. Recognition of the principle of uniformity of wage increases for all crafts of railroad employees requires that the difference of 13.5 cents per hour be considered an inequity presently faced by the nonoperating employees.

The two situations noted above that have given rise to wage inequities against the nonoperating employees total 16.5 cents per hour. The Board concludes that a wage increase "package" of 16.5 cents per hour is now necessary to place the nonoperating employees on an equal basis with other railroad employees insofar as the principle of uniform wage increases is concerned. If a wage increase of this sum is made available to these nonoperating employees their total across-the-board wage increases for the 1948-1955 period

> will be 55 cents per hour, i.e., exactly equal to the total across-the-board wage increases granted in the same 1948-1955 period to operating employees for whom 1955 wage agreements have been consummated (except for the 1955 skill differential for Engineers). (pp. 36-37)

On the basis of these findings, Emergency Board No. 114 recommended "that a general across-the-board wage increase of 14.5 cents per hour be made effective as of December 1, 1955 for employees represented by the Organizations"; however, it found that the pattern principle of "equality of treatment among the several classes of railroad employees" required a somewhat lesser increase for employees represented by the Hotel and Restaurant Employees and Bartenders International Union. Under the heading "Special Consideration Applicable to Dining Car Employees" the board made the following findings:

> The employees represented by the Hotel and Restaurant Employees and Bartenders International Union, one of the Organizations involved in the wage issue, received the 5 cents per hour wage increase generally effective in December 1953. As a consequence that 1953 wage increase to other crafts did not create any inequity as to such employees. Therefore, the recommended "package" wage increase of 16½ cents per hour must be reduced by 3 cents per hour for such employees, i.e., the extent of the inequity found to exist against the nonoperating employees by virtue of the December 1953 wage increase. Since these employees have subsequently requested a Carrier-financed health and welfare plan, 4 cents of the 13½ cents per hour here recommended for these employees must be applied to the payment of the cost of any such plan to preserve the principle of uniformity of wage increases. (p. 39)

With respect to the demand of the organizations that the carriers assume the 2¢ an hour contribution that nonoperating employees were then making toward the cost of their medical and hospital insurance plan (see Appendix D), Emergency Board No. 114 said

> "...there are two circumstances which make it proper to recommend that this issue be settled by agreement of the Carriers to assume payment of the present employee contribution on March 1, 1956. The Carriers offered a package settlement in this case consisting of a wage increase and assumption of the full health and welfare cost (up to $6.80 per month per employee), and the settlements made with operating groups of employees in 1955 included a four cent per hour wage increase in lieu of the full cost of a health and welfare plan comparable to that of these nonoperating employees. Equality of treatment among the several classes of railroad employees, which the Carriers assert is their policy, requires such a recommendation. (p. 47) (Emphasis supplied)

CONCLUSION

As a result of the post-depression wage, rules and fringe benefits movements in the railroad industry (that have preceded the current movement) all classes and crafts of employees have received substantially the same general wage increases (Appendix A); all classes of yard operating employees and nonoperating employees have received 40-hour work week wage adjustments pursuant to a uniform formula providing total increases equal to 20% of their hourly rates of pay in effect in September, 1948 (Appendix B); inter-craft wage rate adjustments necessary to correct supposed inter-craft inequities have been extended to all classes and crafts of employees similarly situated on a uniform non-discriminatory basis (Appendix C); medical, surgical and hospital insurance benefits, or their equivalents have been granted on the basis of equality of treatment to all of the several classes of operating and nonoperating groups (Appendix D), and all classes and crafts have been granted substantially the same vacation benefits.

The report of Emergency Board No. 114 makes it crystal clear that if any emergency board should recommend, or if any settlement agreement should grant, to any class of railroad employees, benefits that are greater than, or different from, the benefits granted to other classes and crafts, the carriers will eventually (and probably sooner than later) be required to eliminate these differences by the costly process of extending to all similarly situated classes and crafts all of the wage increases and all of the benefits that have theretofore been granted to any class or craft. Any board which recommends or awards, and any settlement agreement which grants, any wage adjustment or other benefit to any class or group of employees is, in effect, recommending, awarding or granting that wage increase or other benefit for all classes and crafts of railroad employees.

But unquestionably the most significant aspect of the history of the post-depression wage and rules movements (reviewed in this exhibit) is its unmistakable warning that any settlement which departs from a pattern of settlements that has been established in the railroad industry is not, in fact, a settlement at all. Any departure from a pattern settlement inevitably destroys all previous settlements, prolongs and complicates the dispute, injures employee morale and industry labor relations, and increases (then and for the future) the difficulties that characterize collective bargaining procedures in the railroad industry.

APPENDIX A

POST DEPRESSION GENERAL WAGE INCREASES

Cents Per Hour - Railroad Employees

Effective date of increase	Amount of increases			Cumulative increases		
	Road operating employees	Yard operating employees	Non-operating employees	Road operating employees	Yard operating employees	Non-operating employees
Aug. 1,'37			5.0¢			
Oct. 1,'37	5.5¢	5.5¢		5.5¢	5.5¢	5.0¢
Dec. 1,'41	9.5	9.5	10.0	15.0	15.0	15.0
Feb. 1,'43			7.0#			
Apr. 1,'43	4.0	4.0				
Dec. 27,'43	5.0	5.0	2.4#	24.0	24.0	24.4
Jan. 1,'46	16.0	16.0	16.0			
May 22,'46	2.5	2.5	2.5	42.5	42.5	42.9
Sept. 1,'47			15.5			
Nov. 1,'47	15.5	15.5		58.0	58.0	58.4
Oct. 1,'48			7.0			
Oct. 16,'48	10.0	10.0		68.0	68.0	65.4
Oct. 1,'50	5.0	8.5				
Jan. 1,'51	5.0	2.0				
Feb. 1,'51			12.5			
Mar. 1,'51	2.5	2.0		80.5	80.5	77.9
Apr. 1,'51*	6.0	6.0	6.0			
July 1,'51*	1.0	1.0	1.0			
Jan. 1,'52*	4.0	4.0	4.0			
Apr. 1,'52*	- 1.0	- 1.0	- 1.0			
July 1,'52*	2.0	2.0	2.0			
Oct. 1,'52*	2.0	2.0	2.0	94.5	94.5	91.9
Dec. 1,'52	4.0	4.0	4.0	98.5	98.5	95.9
Jan. 1,'53*	- 1.0	- 1.0	- 1.0			
Apr. 1,'53*	- 3.0	- 3.0	- 3.0			
Oct. 1,'53*	3.0	3.0	3.0	97.5	97.5	94.9
Dec. 16,'53	5.0	5.0				
Oct. 1,'55	6.5	6.5				
Dec. 1,'55			14.5	109.0	109.0	109.4

* Cost of living adjustments. Net increase of 13 cents incorporated into basic rates of operating employees on December 16, 1953 and into the basic rates of nonoperating employees on December 3, 1954.

Average of sliding scale increases.

APPENDIX B

FIVE-DAY WORK WEEK WAGE ADJUSTMENTS

Cents Per Hour - Railroad Employees

Classes of employees	Increase effective Sept. 1, 1949	Increases effective Oct. 1, 1950 (Note (a))	Increases effective Jan. 1, 1952 (Note (b))	Increases effective Dec. 1, 1955 (Note (c))	Total increases (Note (d))
Nonoperating employees (73 Classes) av.	23.5¢				23.5¢
Yard engineers		14.5¢	4.0¢	13.4¢ av.	31.9 av.
Yard firemen		14.5	4.0	8.5 av.	27.0 av.
Yard conductors		14.5	4.0	12.25	30.75
Yard brakemen		14.5	4.0	10.125	28.625
Switch tenders		14.5	4.0	6.8	25.3
Outside hostlers		14.5	4.0	9.5	28.0
Inside hostlers		14.5	4.0	7.9	26.4
Outside hostler helpers		14.5	4.0	6.3	24.8
Yard operating employees (8 Classes) av.		14.5	4.0	10.5	29.0

Note (a): Emergency Boards Nos. 110 and 114 found 14.5¢ of the 23.0¢ wage increase granted yard operating employees, effective October 1, 1950, to be a pre-conversion 5-day work week adjustment.

Note (b): Under then-existing agreements January 1, 1952, was the first day on which yard operating employees were permitted to adopt a 5-day work week. Those converting on January 1, 1952, then received a 4¢ increase in their hourly rates of pay and those converting after January 1, 1952, received this increase at the time they exercised their option to convert.

Note (c): All yard operating employees who adopted a 5-day work week on or before December 1, 1955, received the increases shown in this column on December 1, 1955. Those converting after December 1, 1955, received these increases as of the date of conversion.

Note (d): The increases shown in this column are in all cases 20% of the average hourly rates of pay that were effective for each class of employee in September 1948.

APPENDIX C

POST DEPRESSION INTER-CRAFT WAGE RATE ADJUSTMENTS

Cents Per Hour - Railroad Operating Employees

Class of employees	Rules changes effective Jan. 1, 1948	Train length wage increases effective June 16, 1955	Differential-inequity wage increases effective Oct. 1, 1955
Passenger conductors		2.5¢	3.875¢
Through freight conductors		6.125 avg.	3.875
Local freight conductors		4.5 avg.	3.875
Ticket collectors		2.5	
Passenger baggagemen		2.5	
Passenger brakemen		2.5	
Through freight brakemen		6.125 avg.	
Local freight brakemen		4.25 avg.	
Passenger engineers			3.9
Through freight engineers			4.457
Local freight engineers			4.957
Passenger firemen			
Through freight firemen			
Local freight firemen			
Yard conductors	6.625¢		3.125
Yard brakemen	2.5		
Yard engineers	4.9 avg.		4.373
Yard firemen	2.4 avg.		
Switch tenders	2.5		
Outside hostlers	2.125		
Inside hostlers	2.125		
Outside hostler helpers	2.125		

Note: Differential wage adjustment for yard conductors became effective June 1, 1955. Rules changes included 4.125¢ differential-inequity adjustment for conductors; inclusion of 20¢ daily earnings minima into basic rates of conductors, brakemen and switchtenders; average increases resulting from application of through freight rates for engineers and firemen, and differential-inequity adjustments for hostlers.

APPENDIX D

MEDICAL, SURGICAL AND HOSPITAL INSURANCE BENEFITS

Cents Per Hour - Railroad Employees

Effective date of payment	Dates of agreements (and implementing agreements)	Nature of benefit	Road operating employees	Yard operating employees	Non-operating employees
February 1, 1955	Aug. 21, 1954 (Jan. 18, 1955)	Carriers' contribution to the cost of medical and hospital insurance for nonoperating employees			2.0¢
October 1, 1955	Oct. 4, 1955-Trainmen Oct. 14, 1955-Firemen Oct. 27, 1955-Engineers Dec. 21, 1955-Conductors	Increase in rates of pay of operating employees "in lieu of the offer of the carriers....to set up a medical and hospital plan for employees"	4.0¢	4.0¢	
March 1, 1956	Dec. 21, 1955 (Feb. 15, 1956)	Increase in carriers' contribution to the cost of medical and hospital insurance for nonoperating employees			2.0

APPENDIX E

PAGE FIVE OF THE REPORT OF EMERGENCY BOARD NO. 114

Increases in Hourly Rates of Railroad Employes 1948 - 1955

Effective date of Increase	Nonoperating Employees (73 classes)	Yard Operating Employees (8 classes)	Road Operating Employees (14 classes)
Oct. 1948	7.0¢	10.0¢	10.0¢
Sept. 1949	(23.5)[a]		
Oct. 1950		(14.5)[b]	
		8.5	5.0
Jan. 1951		2.0	5.0
Feb. 1951	12.5		
Mar. 1951		2.0	2.5
Mar. 1952		(4.0)[c]	
Apr. 1951 to Oct. 1953 Net Cost of Living Changes	13.0	13.0	13.0
Dec. 1952	4.0	4.0	4.0
Dec. 1953		5.0	5.0
Jan. 1955	2.0[d]		
Oct. 1955		6.5	6.5[e]
		4.0[f]	4.0[f]
		(17.0)[g]	
Total	38.5¢	55.0¢	55.0¢

- - -

a. Average increase due to conversion to 40-hour week. Not an across-the-board increase.

b. Prepayment toward conversion to 40-hour week as calculated by Emergency Board No. 110 and adopted by Carriers and Yard Operating Organizations in October 1955. Originally negotiated as an across-the-board increase, but subsequently removed from that category by negotiations.

c. Conversion factor negotiated for, and applicable only to, conversion to 40-hour week. Not an across-the-board increase.

d. Cents-per-hour value of Health and Welfare Benefit costs assumed by Carriers. Listed here as equivalent to an across-the-board increase.

e. Applicable to road operating employees except Conductors and Engineers. Additional skill differential of 2 per cent for Engineers not included.

f. Across-the-board increases in lieu of Health and Welfare benefits.

g. Final adjustment negotiated in October 1955 by Organizations and Carriers for conversion to 40-hour week on base of 1948 rates. Amount shown is approximate for Firemen only. Not an across-the-board increase.

ASA PHILIP RANDOLPH

SUBJECT FILE

BROTHERHOOD OF SLEEPING
CAR PORTERS
Legal Papers
Railway Labor Disputes
And Settlements

1962-1963

(3)

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

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815 SIXTEENTH STREET, N.W.
WASHINGTON 6, D.C. NATIONAL 8-3870

January 24, 1962

Mr. A. Philip Randolph, President
Brotherhood of Sleeping Car Porters
Room 301, 217 West 125th Street
New York, New York

Dear Sir and Brother:

I am enclosing copies of the new amendment to the AFL-CIO Constitution, "Article XXI--Settlement of Internal Disputes", which is available in leaflet form to affiliates desiring copies for their staff members and local officers.

The settlement machinery set forth in this amendment is in operation and cases are currently being processed. A panel of mediators, consisting of 43 prominent trade union officers, has been designated and Mr. David L. Cole has been appointed Impartial Umpire.

Affiliates desiring to file a complaint, alleging a violation of Article XXI by another affiliated union, should do so by means of a letter of notification signed by the principal officer of the complaining union, setting forth the facts of the case as fully as possible, and addressed to the President of the AFL-CIO, 815 Sixteenth Street, Washington, D. C.

Before filing a complaint with this office, affiliates are strongly urged to contact the other organization or organizations involved in the dispute and to make an earnest effort to resolve the dispute by mutual agreement, so as to avoid as far as possible unnecessary recourse to the AFL-CIO internal disputes procedure.

Additional copies of the text of Article XXI can be obtained, in the quantity desired, through the AFL-CIO Department of Publications.

Sincerely and fraternally,

Geo. Meany
President

Enclosure

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

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815 SIXTEENTH STREET, N.W.
WASHINGTON 6, D.C.   NATIONAL 8-3870

February 13, 1962

Mr. A. Philip Randolph, President
Brotherhood of Sleeping Car Porters
Room 301, 217 West 125th Street
New York, New York

Dear Sir and Brother:

In accordance with Section 14 of Article XXI of the AFL-CIO Constitution, please be advised that the subcommittee of the Executive Council, consisting of Secretary-Treasurer Schnitzler and Vice Presidents Beirne and Hayes, has found the International Brotherhood of Bookbinders to be in non-compliance with a determination of the Impartial Umpire.

This finding of the subcommittee followed the refusal of Local 119 of the International Brotherhood of Bookbinders to withdraw from a raid upon Local 107 of the International Brotherhood of Pulp, Sulphite and Paper Mill Workers at Card Processing, Inc., Brooklyn, New York. A decision of the Impartial Umpire on January 23, 1962, had found this action to be a violation of the AFL-CIO No-Raiding Agreement.

Effective February 12, 1962, therefore, the International Brotherhood of Bookbinders will be subject to the following provisions of Section 15 of Article XXI:

"(1) The non-complying affiliate shall not be entitled to file any complaint or appear in a complaining capacity in any proceeding under this Article until such non-compliance is remedied or excused as provided in Section 16;

"(2) The Federation shall, upon request, supply every appropriate assistance and aid to any organization resisting the action determined to be in violation of this Article;

"(3) The Federation shall appropriately publicize the fact that the affiliate is not in compliance with the Constitution;

"(4) No affiliate shall support or render assistance to the action determined to be in violation of this Article."

Sincerely and fraternally,

George Meany

President

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FEB 14 1962
OFFICE OF THE PRESIDENT

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815 SIXTEENTH STREET, N.W.
WASHINGTON 6, D.C.   NATIONAL 8-3870

November 7, 1962

Mr. A. Philip Randolph, President
Brotherhod of Sleeping Car Porters
Room 301, 217 W. 125th Street
New York, New York

Dear Sir and Brother:

I am writing to request that you serve as Mediator, under Article XXI of the AFL-CIO Constitution, in a dispute between the International Printing Pressmen's and Assistants' Union and the Oil, Chemical and Atomic Workers International Union at the Lily Tulip Cup Corporation.

I would appreciate your advising me as soon as possible whether you will accept this assignment. A date, suitable to you, preferably within the next three weeks, would be appreciated.

Sincerely and fraternally,

Geo. Meany
President

FOR RELEASE AT 3:00 p.m. (EDT), JULY 22, 1963

Office of the White House Press Secretary

- -

THE WHITE HOUSE

SPECIAL MESSAGE ON THE RAILROAD RULES DISPUTE

TO THE CONGRESS OF THE UNITED STATES:

This nation stands on the brink of a nation-wide rail strike that would, in very short order, create widespread economic chaos and distress. After more than three and one-half years of constant but fruitless attempts to achieve a peaceful settlement between the parties through every private and public means available, this dispute has reached the point where only prompt and effective Congressional action can assure that serious injury to the public will be prevented.

Background of the Case

This dispute is between virtually all of the Nation's major railroads and the five railroad operating brotherhoods -- the Brotherhood of Locomotive Engineers, the Brotherhood of Locomotive Firemen and Engin men, the Order of Railway Conductors and Brakemen, the Brotherhood of Railroad Train men and the Switchmen's Union of North America. It involves -- in addition to the more traditional issues of wage structure and fringe benefits -- new and complex issues relating to changes proposed by the carriers and the brotherhoods in work rules affecting the manning of certain railroad operations and the assignments of particular crafts. The background and history of this case, the issues in dispute and the respective positions of the parties have been clearly and concisely set forth in a July 19, 1963 Report unanimously signed by 6 tripartite members of a Special Subcommittee of the President's Advisory Committee on Labor-Management Policy. That Report, including the Appendices, is included as an appendix to this Message, and should be carefully read by all who seek the facts on this case.

Without attempting to summarize either the findings of that Report or the excellent work of the other panels mentioned below, the following points are worth noting:

-- After the carriers on November 2, 1959 had served notice of proposed rules changes on the brotherhoods, and the brotherhoods had served notice of other proposed rule changes on September 7, 1960, and no agreement was forthcoming, both parties agreed on October 17, 1960 to submit the entire subject to a special Presidential study commission of 15 members, composed of an equal number of public, railroad and brotherhood representatives. Following thirteen months of extensive hearings and deliberations, 15,500 pages of oral testimony and more than 300 exhibits, this Presidential Railroad Commission, under the chairmanship of Judge Simon H. Rifkind, recommended specific rules changes and employee protection provisions in a comprehensive 342 page report.

more

-- Following a Supreme Court determination that there was no legal barrier to the carriers' initiating such changes, with appropriate bargaining and recourse to the Railway Labor Act procedures, and following the continued inability of the parties to negotiate an agreement. the National Mediation Board recommended to the parties that the case be submitted to binding arbitration.

-- As disagreement continued and a nation-wide strike threatened an Emergency Board established pursuant to Section 10 of the Railway Labor Act, under the chairmanship of Judge Samuel I. Rosenman, following its own unsuccessful efforts to mediate the dispute, made a series of recommendations designed to serve as the basis for constructive collective bargaining.

-- After further discussions and an extension at my request of the status quo period, the Secretary of Labor on July 5, 1963 recommended solutions for the two most controversial issues along with procedures to dispose of the rest.

-- On July 9, 1963, I recommended to the parties that all issues be submitted for final settlement to Associate Justice of the Supreme Court Arthur Goldberg, whose judicious temperament, expert competence and many successes as a mediator uniquely deserved the confidence of both parties. This recommendation, and each of the preceding four sets of recommendations, were accepted by the carriers; but the brotherhoods rejected them in whole or in part.

-- On July 10, at my request, the parties agreed to maintain the status quo until July 29 to permit time, first, for the Labor-Management Subcommittee to examine and report the issues, and, second, for the Congress to consider this entire matter. It was my hope -- and remains such -- that the parties would recognize the importance of settling this dispute without resort either to legislation or to a crippling national strike. However, too little progress has been made in the past 11 days to release me from my July 10 commitment to transmit to the Congress on this date a review of the case and my recommendations for its disposition.

We face this prospect: In the absence either of an agreement, postponement or reversal of position on the part of the parties, or of enactment of some contrary measure on the part of the Congress, July 29 will almost certainly witness the start of a general rail strike. The carriers on that date can be expected to initiate work rules changes along the lines of those approved by the various panels. And the brotherhoods thereupon can be expected to strike 94% of the Nation's rail mileage.

The Effects of a Prolonged Nationwide Rail Strike

In the event a strike occurs it will bring widespread and growing distress.

Many industries which rely primarily on rail shipment -- including coal and other mining which is dependent on rails leading directly to the mine, steel mills that ship by rail, certain chemical plants which load liquids directly into tank cars, and synthetic fiber mills dependent on chemicals which for safety reasons can be carried only in rail tank cars -- all of these and others would be forced to close down almost immediately. There would not be enough refrigerated truck capacity to transport all of the West Coast fruit and vegetable crop. A substantial portion of these and other perishable products would rot. Food shortages would begin to appear in New York City and other major population centers. Mail services would be disrupted. The delay, cost and confusion resulting from diverting traffic to other carriers would be extremely costly; and considerable rail traffic would be wholly incapable of diversion.

The national defense and security would be seriously harmed. More than 400,000 commuters would be hard hit.

As more and more industries exhausted their stockpiles of materials, and components -- including those engaged in the production of automobiles, metal products, lumber, paper, glass and others -- the idling of men and machines would spread like an epidemic. Construction projects dependent on heavy materials -- exports and waterway shipping dependent on rail connections -- community water supplies dependent on chlorine which also moves only by rail -- slaughter houses and stockyards, iron ore, rubber and machinery, magazine publishers and transformer manufacturers -- all would be hard-hit by a strike. The August grain harvest would present a particularly acute problem.

The Council of Economic Advisers estimates that by the 30th day of a general rail strike, some 6 million non-railroad workers would have been laid off in addition to the 200,000 members of the striking brotherhoods and 500,000 other railroad employees -- that unemployment would reach the 15% mark for the first time since 1940 -- and that the decline in our rate of GNP would be nearly four times as great as the decline which occurred in this Nation's worst post-war recession.

At the same time, shortages and bottlenecks would increase prices -- not only for fruits and vegetables but for many industrial materials and finished products as well -- thus impairing our efforts to improve our competitive posture in foreign and domestic markets and to safeguard our balance of payments and gold reserves. And even if the strike were ended by private or Congressional action on the 30th day, at least another month would be required before the economy would be back on its present expansion track. Indeed, a prolonged strike could well break the back of the present expansion and topple the economy into recession before the tax reductions and other measures now before the Congress for reinforcing the expansion have had a chance to take hold.

The Legislative Setting

In short, the cost to the national interest of an extended nation-wide rail strike is clearly intolerable. No responsible government could accept the present situation with complacency. Because in the past both sides have recognized the serious consequences involved, there have been only two brief national rail strikes in this century. The likelihood of a strike next week thus means that we are confronted with an extraordinary situation, both in terms of the impact of the strike on our economy and in terms of the issues involved. These issues, unlike those of typical wage disputes, are ones with very little collective-bargaining play left in them. The work-rules aspects of the present dispute are regarded as do-or-die matters by both parties -- and the history of industrial relations shows that when employers and employees consider the issue to be this vital, they can both stand a strike much longer than the country can stand it. Therefore the parties being unable or unwilling to reach agreement or accept arbitration, and the Executive Branch having exhausted all statutory and other tools available, the responsibility now lies with the legislative branch.

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The Congress has expressly refused to give the Executive authority to seize the railroads in time of peace and has expressly excluded railway labor from the national emergency provisions of the Labor Management Relations Act of 1947. The Supreme Court has stated that the Congress is the appropriate forum for considering remedies against strikes designed to prevent the railroads from reducing employment for economic reasons. (Telegraphers vs. Chicago & N. W. R. Co., 362 U.S. 330, 342). When adopting the Railway Labor Act in 1926, moreover, it was contemplated that special Congressional action might be required "to protect the public interest in adequate and uninterrupted transportation. If (the bill) does not so work . . . so as to avoid any impairment of the public interest . . . Congress will be unembarrassed in adopting any means it sees fit to protect the public interest." (Report of the Senate Committee on Interstate Commerce, S. Rpt. 222, 69th Congress, 1st Session 1926).

In 1916, the Congress set a precedent that is of interest today. As the result of a dispute over hours and wages, the railroad brotherhoods had issued a call for a nation-wide rail strike; and President Wilson held a conference with the parties. When he proposed arbitration, the carriers agreed and the brotherhoods refused. When he proposed the eight hour standard of work and wages, the brotherhoods agreed and the carriers refused. Confronted with the prospects of an early strike, the President then asked Congress to enact the eight-hour standard as an interim law pending a further report to the Congress by a special Presidential Commission. He pointed out that he had "no resources at law . . . for compulsory arbitration, to save the commercial disaster, the property injury and the personal suffering of all . . . if the strike was not prevented." The Interstate Commerce Commission, he stated, would protect the carriers through its rate powers against any undue cost increases resulting from this change. Congress acted promptly and effectively; and the Supreme Court (Wilson vs. New, 243 U.S. 332, 333, 342, 1917), emphasizing the fact that the nature of the railroad industry required both employers and employees to defer to regulation in the public interest, held that Congress had the power to impose a a settlement binding on both parties "for a reasonable time, in order that the calamity may be averted and that opportunity may be afforded the contending parties to agree upon and substitute a standard of their own."

With all of these legal, economic and other facts in mind, this Administration has given careful consideration to the kind of legislation Congress might usefully enact to meet the needs of the present situation.

-- Ineffective measures which would not halt an injurious nation-wide rail strike have been rejected as inconsistent with the public interest.

-- Punitive anti-labor measures which would destroy railway labor's rights to collective bargaining and reasonable job security have been rejected as harmful to the nation and insensitive to the very real issues posed by the proposed work rule changes.

-- Seizure of the railroads has been rejected as unjustified in the circumstances of this case, as creating complex legal and financial problems for the government, and as merely postponing the day of reckoning on more efficient work rules and their acceptance by the brotherhoods.

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-- Compulsory arbitration of this dispute by a special or Congressional panel has been rejected as inconsistent with the principle that solutions reached through free collective bargaining should always be permitted and preferred.

-- Indefinite extension of the status quo for one or both parties has been rejected as an evasion of a serious public, as well as labor-management, issue that must be squarely faced.

Our objective instead was to find a solution which
(1) is sufficiently familiar to the Congress, in terms of the procedures and principles involved, to facilitate its prompt enactment;

(2) encourages the parties to achieve their own solutions through collective bargaining;

(3) confronts the parties, on issues where voluntary agreement is not possible, with methods and standards of solution which are comparable to those both sides have previously experienced and found acceptable;

(4) recognizes both the public interest in promoting railroad efficiency and preventing a disastrous strike and the public's concern for those adversely affected by a settlement; and

(5) provides for an interim remedy while awaiting the results of further bargaining by the parties.

Recommended Legislation

As noted above, the Railroad Eight Hour Law of 1916 provides a precedent for Congressional intervention of this type; and the Interstate Commerce Act provides a pattern to which both Congress and the parties are accustomed. Recognizing that both railroad mergers and their effect on railroad employment are deeply affected with the public interest, Section 5 of that Act wisely supplements the results of private decision-making and collective bargaining in this area with the quasi-judicial regulatory powers of the independent Interstate Commerce Commission. Proposed mergers must be passed upon by the Commission after due regard to their effect on public service and safety, the rights of employees and other considerations. In its order of approval the Commission includes specific terms and conditions to protect the job security of the employees involved. The carriers and brotherhoods remain free to supersede these employee security provisions with their own collective bargaining agreement. The value which railroad and other unions attribute to this section was reflected in their urging that comparable provisions be included in this year's Mass Transportation Bill; and there are such provisions in this bill as it passed the Senate and as it was reported in the House.

There is no reason why these principles and procedures, if they are applicable to the employment security problems raised by railroad mergers and mass transit modernization, are not equally applicable to the employment security problems raised by railroad modernization and mechanization. An expert body should pass on these proposed rule changes in the light of public service and safety; and it should also make provision to prevent the employees from bearing the full cost of technical or economic progress, so long as priority is given to agreements privately reached by the parties themselves.

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I recommend, therefore, that -- for a two-year period during which both the parties and the public can better inform themselves on this problem and alternative approaches -- interim work rules changes proposed by either party to which both parties cannot agree should be submitted for approval, disapproval or modification to the Interstate Commerce Commission in accordance with the procedures and provisions of Section 5 of the Interstate Commerce Act, the Commission being directed to use to advantage the work of the two previous panels which received evidence on these matters. At its discretion, the Commission may also appoint a Special Advisory Panel to assist it in the discharge of its functions. The Commission shall judge the effect of each proposed rule on the adequacy and safety of transportation service to the public and on the interests of both parties; and it shall, with the advice of the Secretary of Labor, require fair and equitable arrangements to protect the interests of the affected employees, giving proper weight to the protection provisions of Section 5 (2) (f) of the Interstate Commerce Act and those recommended by the Presidential Commission and Emergency Board reports. Emerging from the recommendations of these boards was the principle that, while many jobs would not be filled following the death, retirement or voluntary transfer of the present occupants, every present employee with a significant attachment to the railroad industry would retain the right to his present employment or to comparable railroad employment at comparable pay. Provisions would also be made for rehiring priority, relocation expenses, displacement allowances, education and retraining grants, supplemental severance and retirement benefits and other features. In short, no one would be thrown out in the street; and, while the railroads gradually modernized their operations, there would be little, if any, loss to individual employees.

Unlike compulsory arbitration, this method would preserve and prefer collective bargaining and give precedence to its solutions. But any strike or lockout designed to impose a rules change which has not been approved by the Commission or the parties, or to oppose one which has been approved, would be subject to the remedies of Section 5 (8) of the Interstate Commerce Act.

This procedure is most appropriate to the disposition of those rule changes involving the manning of train or engine crews -- the "automation" issues, in a sense. It would build on the progress made to date in defining and refining those issues through the various panel studies and subsequent bargaining efforts.

While the disposal of those issues should be sufficient to remove the barriers to a peaceful solution of all other issues by collective bargaining between the parties, many of them are closely interrelated to the work rules changes -- and I recommend that the same Joint Resolution of the Congress provide that either party may submit such issues to the Commission to be settled by procedures deemed appropriate by the Commission.

I stress the fact that, unlike compulsory arbitration, these procedures would provide only interim changes and only for those situations and for such length of time as the parties are unable to agree by collective bargaining. This was also true of the 1916 Act. Experience with both the interim rules and these temporary procedures should enable the parties to consider in two years, under considerably less pressure, whatever more comprehensive and final solution is needed, if any.

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This recommendation contemplates that the nation as a whole, which shares in the benefits, would also bear part of the burden imposed by advancing railroad technology. To the extent that provision for retraining and other payments may be available to an employee under the Manpower Development and Training Act of 1962 or other Federal statutes, the carrier will be relieved of this obligation. As Congress recognized in the readjustment provisions of the Trade Expansion Act and Selective Service Laws, the government has some obligation to assist those adversely affected by governmental decisions which are required in the national interest; and there is little logic in protecting the economy by methods which also lead to increased unemployment and more distressed areas. The unfairness of placing the entire burden of readjustment costs upon either the carriers or the workers is an additional reason why legislation is particularly appropriate in this case.

The combination of elements stressed in this bill -- permitting progress for the carriers and assuring job security and readjustment assistance for the workers -- was also stressed by both the Presidential Railroad Commission and the Emergency Board established in this case. Referring to the provisions of Sec. 5 of the Interstate Commerce Act and their successful application to other areas, the Presidential Commission states:

" -- An adequate program to realize the benefits of advancing technology in the public interest, therefore, must include both reasonable opportunity for management to achieve change, and for workers to enjoy reasonable protection against the harsh effects of too sudden change. Progress plus protection must be our choice. . . . in the case of technological improvement . . . as in the case of mergers."

The Emergency Board stated:

" -- We are mindful also of the necessity for progress in the railroad industry, for efficiency in order to meet the challenge of competing industries. We have sought by our recommendations to increase these prospects of the Carriers, and at the same time to preserve not only strong unions for the employees, but for the individual worker a continued life of usefulness to himself and his family, and to society itself. The railroads, and society as a whole, have benefited by these changes; and they should both share generously in the burdens which have been cast upon the workers by the dislocations. These burdens, in addition to dollar payments, involve education or retraining for new jobs at the expense of the Carriers, supplemented by public funds now or hereafter committed to general retraining of displaced manpower."

Automation

This brings me to the broader issue to which this Message is addressed. The dispute which confronts us today has many special features -- including the unusual public-interest nature of the industry, the disastrous impact of a prolonged strike and the particular circumstances of this case. It would be wholly inappropriate to make general and permanent changes in our labor relations statutes on this basis.

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It would be particularly unwise to enact a general and permanent compulsory arbitration law, which I have always opposed. The Congress contemplated, in enacting the Railway Labor Act as well as the Labor-Management Relations Act of 1947, that special actions by the Congress may be required as a final recourse in any individual dispute; but the automatic assurance of compulsory arbitration would encourage one or both parties to neglect their bargaining responsibilities. The measure I am recommending today, in contrast with compulsory arbitration, gives encouragement and preference to solutions reached by collective bargaining, and provides only for interim decisions. It recognizes, moreover, that disputed rules changes and their effects on employment are appropriately matters for regulation by an independent agency which has specialized knowledge of the railroad industry and possesses procedures for handling these matters.

I would be remiss in my duty, however, if I failed to note that this dispute over railroad work rules is part of a much broader national problem. Unemployment, whether created by so-called "automation," by the shift of industry to new areas, or by an over-all shortage of market demand, is a major social burden.

During the past six years the level of unemployment has remained far too high. Men have been without jobs and factories have been without orders, primarily because the overall level of market demand has fallen short of the nation's productive capacity. But when job opportunities are already scarce, those whom technological progress or industrial change displace are more likely than ever to join the ranks of the unemployed than to find a new job. General unemployment is thus a double burden; as it penalizes those without jobs, it also creates fear and resentment against the very kind of modernization and change upon which our economic progress must in the long run depend. This is why I have placed such heavy emphasis upon the prompt enactment of my tax proposals, designed to stimulate market demand and return the economy to full employment.

To be sure, even with full employment, economic change will still bring problems in the wake of progress. Problems will remain for workers who are displaced by advances in technology, obsolescence of their skills or their industries, inadequacy of their education or training, or geographical shifts in economic activity. These problems are not new; they are the price of progress in any dynamic society. More particularly, the phenomenon that we call "automation" is not new; technological innovation and change have been the mainspring of economic growth in this country for more than a century. Nor is there yet convincing evidence that the over-all pace of such change has accelerated recently.

But seen through the magnifying lens of our general unemployment problem of the past six years, the difficulties faced by those who are technologically and structurally displaced from work have captured unprecedented attention; and this is as it should be. Our awareness has been mounting that it is unfair to ask particular workers -- or in some instances, even particular employers -- to bear the full social costs that attend such progress.

This problem is particularly but not exclusively acute in the railroad industry. Forty percent fewer employees than were employed at the beginning of this decade now handle substantially the same volume of rail traffic. The rapid replacement of steam locomotives by diesel engines for 97% of all freight tonnage has confronted many firemen, who have spent much

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obsolescence." The introduction of self-propelled vehicles for railroad maintenance, repair and construction work -- the use of longer, heavier, faster and more efficiently filled trains -- and the initiation of centralized traffic control, electronic inspection equipment, telephonic and radio communications, and automatic switching and braking equipment have all decreased the need for railroad employment. The Presidential Commission was established in part, it said, because of the need "to close the gap between technology and work."

That Commission recognized, however, that "revolutionary changes even for the better carry a high price in disruption . . . (that) might exceed the value of the improvements."

Yet we cannot stop progress in technology or arrest economic change in transportation or any other industry -- nor would we want to. For technological change has increased man's knowledge, income, convenience, leisure and comfort. It has reinforced this nation's leadership in scientific, economic, educational and military endeavors. It has saved lives as well as money, and enriched society as well as business. Our task as a nation, to use the phrase of the Commission report, is simply to make sure that this public blessing is not a private curse. We cannot pretend that these changes will not occur, that some displacement will not result or that we are incapable of adapting our legislative tools to meet this problem.

While last year's Manpower Development and Training Act recognized the Federal Government's responsibility to help retrain and readjust workers who have been displaced by industrial change, as do this year's Vocational Education proposals, their scope is too limited to provide the full answer to a problem of this magnitude. The problems of manpower displacement, of which automation is only one cause, should not be settled primarily by the use of private economic power and pressure, or discussed only on the picket lines. They cut across many Departments of Government, all types of occupations, all standards of income, all sections of the country. Their solution is of importance to the entire nation which now enjoys all the benefits of economic progress but, except when it is part of the employee group affected, now bears very little of its burdens.

For these reasons, it is my intention to appoint a Presidential Commission on Automation, composed of the ablest men in public and private life, and charged with the responsibility of

(1) identifying and describing the major types of worker displacement, both technological and economic, which are likely to occur during the next ten years, and the social and economic effects of these developments on our economy, our manpower, our communities, our families, and our social structure and human values; and

(2) recommending, in addition to those actions which are the responsibility of state and local government and private management and labor, specific administrative and legislative steps to be taken by the Federal Government in meeting its responsibility to share the costs and alleviate the losses of automation job-displacement, in such a way as to assure both the continued advance of our technology and the continued well-being of our people.

This Commission should undertake the most comprehensive review of this complex and many-sided subject ever ventured, and report no later than the close of next year. Its report must pioneer in the social, political and economic aspects of automation to the same extent that our science and industry have pioneered in its physical aspects. For the pending railroad dispute is likely the first of many, and a comprehensive long-range policy will be needed. I have no doubt, let me add, that such a policy will embody the basic elements of the measure recommended today -- encouraging the advance of technology while protecting the security of the workers, encouraging private bargaining while protecting the public interest.

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Thus the prompt enactment of this measure by the Congress will help launch a new national effort to meet the growing challenge of worker displacement by technological and economic change. Both the proposed bill and the new Commission are actions that will benefit both labor and management -- but above all, they will benefit the public interest, and that is our primary test.

JOHN F. KENNEDY

THE WHITE HOUSE,

July 22, 1963.

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JOINT RESOLUTION

To provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

Whereas the labor dispute between the Carriers represented by the Eastern, Western, and Southeastern Carriers' Conference Committees and certain of their employees represented by the Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen, Order of Railway Conductors and Brakemen, Brotherhood of Railroad Trainmen, and the Switchmen's Union of North America, labor organizations, threatens essential transportation services of the nation; and

Whereas it is essential to the nationl interest, including the national health and defense, that transportation services of these carriers be maintained; and

Whereas all the procedures for resolving such dispute provided for in the Railway Labor Act have been exhausted and have not resulted in settlement of the dispute; and

Whereas the Congress finds that emergency measures are essential to secure the continuity of transportation services by such carriers; and

Whereas it is desirable to achieve the above objectives in a manner which preserves and prefers solutions reached through collective bargaining, and preserves the carriers' right to initiate work rules changes under procedures to which they are accustomed and assures reasonable conditions of employee security: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That changes in work rules involving the manning of train or engine crews and the protection of the interests of employees affected thereby, which changes come within the area of those proposed by a carrier in the notices of November 2, 1959, or by a labor organization in the notices of September 7, 1960, shall become effective upon application to and approval or modification by the Interstate Commerce Commission in accordance with the procedures and provisions of Section 5 of the Interstate Commerce Act, such rules to be operative only as interim rules and until the current controversy regarding such rules is resolved by the parties through continued collective bargaining; and no provision in this Joint Resolution shall be construed as limiting the right and responsibility of the carriers and organizations to reach agreement regarding such rules.

Sec. 2. An application filed under Section 1 shall be given priority over all other matters pending before the Commission, and shall be acted upon within 120 days after it is filed or as soon thereafter as is practicable. The Commission may consider as evidence before it the evidence introduced before the Presidential Railroad Commission, created by Executive Order 10891, of November 1, 1960, and before Emergency Board 154, created by Executive Order 11101, of April 3, 1963, and shall not be required to receive evidence cumulative thereto. The Commission may establish a Special Advisory Panel to assist in the discharge of the functions conferred upon it by this Joint Resolution.

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Sec. 3. In acting upon an application filed pursuant to Section 1, the Commission shall give due consideration to the effect of the proposed rule upon adequate and safe transportation service to the public and upon the interests of the carrier and the employees affected, giving due consideration to the recommendations of the Presidential Railroad Commission and Emergency Board 154, and to the narrowing of the areas of disagreement which has been accomplished in bargaining and mediation following the Emergency Board report. As a condition of its approval of any interim rule involving, directly or indirectly, the reduction of existing manning requirements or practices, the Commission shall require a fair and equitable arrangement to protect the interests of the railroad employees affected as provided in Section 5(2)(f) of the Interstate Commerce Act, and with due consideration to the recommendations of the Presidential Railroad Commission and Emergency Board 154 relating to the retention of job rights by senior employees, relocation expenses and earnings protection to less senior employees transferred to other jobs by the employing carrier, preferential hiring rights, displacement allowances, supplemental severance allowances, and retraining allowances. To the extent that provision for such payments and retraining may be available to an employee under the Manpower Development and Training Act of 1962 or other Federal statutes, the carrier will be relieved of this obligation.

Sec. 4. The Commission shall act upon any application filed with it under Section 1 of this Joint Resolution, by way of approval, modified approval, or disapproval; and upon such approval or modified approval an interim rule consistent therewith shall be put into effect and shall remain operative until the parties reach agreement regarding the matter involved or, if no agreement is reached, for two years following the date the interim rule goes into effect.

Sec. 5. No change in rules coming within the scope of the notices referred to in Section 1 of this Joint Resolution may be made except by agreement or by the procedures prescribed herein, and any strike or lockout to accomplish, prevent or interfere with such change shall be subject to the procedures of Section 5(8) of the Interstate Commerce Act.

Sec. 6. The parties shall proceed immediately to bargain collectively, with the assistance of the National Mediation Board, concerning any unresolved issues regarding any proposals which were included in the notices of November 2, 1959, or September 7, 1960, but which do not involve the manning of train or engine crews and the protection of the interests of employees affected thereby. If agreement has not been reached within 60 days following the effective date of this Joint Resolution, any party may submit its proposal to the Interstate Commerce Commission for disposition by such special procedures, not confined to those set out specifically in this Joint Resolution, as the Commission, after consultation with the parties, deems appropriate. Due consideration shall be given in any such procedure to the recommendations of the Presidential Railroad Commission and Emergency Board 154 and to the narrowing of the areas of disagreement which has been accomplished in bargaining and mediation. The provisions of Section 5 of this Joint Resolution shall be applicable to matters covered by such proposals.

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Sec. 7. The provisions of the Act of March 23, 1932, entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," shall not be applicable to an action under Sections 5 or 6. In any such action, service of the complaint and summons shall be made on the parties to the controversy by delivery thereof to an officer or to any other agent of said parties authorized by appointment or by law to receive service of process. The delivery of the summons and complaint may be made by certified mail. The orders, writs, and process of a District Court issued in any such action shall run, be served, and be returnable anywhere in the United States.

Sec. 8. This Joint Resolution shall expire two years from the date it becomes effective: Provided, That the jurisdiction of a District Court of the United States under Sections 5 and 6 shall continue for so long as any interim rule under Section 4 continues to be operative. Prior to such expiration, the President shall report on its operation to the Congress and make such further recommendations, if any, as he deems appropriate, including his recommendation as to whether this Joint Resolution should be extended. In addition, the Interstate Commerce Commission may, from time to time, submit interim reports to the President on its actions pursuant to this Resolution.

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RECEIVED
JUL 24 1963
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B. F. McLAURIN
Eastern Zone Supervisor

November 19, 1963

MEMO FROM INTERNATIONAL PRESIDENT RANDOLPH

Dear Sir and Brother:

As you know, Emergency Board No. 155 was appointed by President Kennedy to investigate our disputes with sleeping car operators concerning shorter hours, increase in rates of pay and job protection -- and to make recommendations for an equitable settlement of these disputes. Because the Board's recommendations is a complex document of some 55 pages, it is not surprising that there has apparently been some misunderstanding as to just what the Board has recommended as a solution to our present dispute.

The purpose of this Memo is to tell you, very briefly, just what the Report of the Board recommends, and to advise you where we now stand and where we go from here. Here is exactly what the Emergency Board recommends:

(1) That the basic work month be reduced from the present 205 to 180 hours in four steps over a period of 30 months. The hours would be reduced to 195 one month after the effective date of the new agreement; then would go to 190 one year later; to 185 one year after that, and to 180 six months after having been reduced to 185.

(2) That the present basic monthly earnings be maintained as the hours are reduced and, in addition, that there be an increase of 5.14 cents per hour calculated on the basis of 195 hours per month.

(3) That there be a lump sum payment of back pay, calculated on the basis of hours worked, and at the rate of 2 cents per hour from February 1, 1962 to May 1, 1962, and 5.14 cents per hour from May 1, 1962 to the date when the hours are reduced to 195.

(4) That the present rule permitting Management to work a man for 35 hours in excess of the basic month (from 205 to 240 hours) be changed to require that time and one-half be paid for all work beyond 10 hours in excess of the basic month. This recommended change would be dependent on the parties to the dispute agreeing on modifying the rules regarding operation of extra men first-in, first-out.

(5) The Board recommends that the agreement require the companies be required to give five working days' notice of abolition of a regular job and further recommends that Pullman and the Brotherhood agree to jointly urge any railroad contemplating taking over the operation of its own sleeping cars to give preference in hiring to Pullman porters to the extent that may be lawful.

That is it. The recommendations, if adopted, would be a step forward, but your officers believe that the step is too small and that it takes too long to get there. Your officers intend to leave no stone unturned in their efforts to get all you deserve.

Neither party is required by law to accept these recommendations. On and after December 2, 1963, our membership is free to strike in support of all of the proposals that were placed before the Board.

No one can now say whether a strike will be necessary. Final negotiations will commence in Chicago on November 25, 1963. If in these negotiations your officers are not able to obtain what you are entitled to have and it becomes necessary to strike, we know from the almost unanimous strike vote you cast that we can count on the unqualified support of every one of you. In order that this support, if needed, may be effective and operated smoothly, you are herewith requested and urged to take the following steps at once:

(1) Get a copy of this Memo into the hands of every member at once.

(2) Officers should call special meetings of the membership at once, with the view of being sure that every man fully understands our present situation.

(3) Call meetings of your Picket Captains. In these meetings review the essential places to be picketed -- make sure that a sufficient number of picket signs are ready -- contact officers of your local unions whose support you will need, and alert them to the possibility of a porters' strike and ask them to respect our picket lines. (Officers should write me details if you find problems)

(4) Make every effort to have joint meetings of members and their wives in order that the whole family may fully understand and participate in the struggle if we find it necessary to stop the cars.

Fraternally yours,

A. Philip Randolph

A. Philip Randolph
International President

FOR IMMEDIATE RELEASE

NOVEMBER 15, 1963

STATEMENT OF A. PHILIP RANDOLPH
PRESIDENT OF THE BROTHERHOOD OF SLEEPING CAR PORTERS
ON THE RECENTLY ISSUED REPORT OF EMERGENCY BOARD NO. 155

The Report of Emergency Board No. 155 comes as a cruel disappointment to the several thousand sleeping car porters who have devoted their working lives to the service of the railroad industry, and who had every reason to expect that this Board would finally point the way to the elimination of the economic injustices that have been imposed upon these porters for many years. By denying a major portion of what was needed to correct the existing inequities, and by delaying for a wholly unreasonable period the progress it does recommend, this Board has failed to measure up to the responsibility imposed upon it.

We have asked that the monthly hours of the sleeping car porters be reduced to 173, the equivalent of a 40 hour week. This Board finds that "the 40 hour week is an almost uniformly adopted standard both in and out of the railroad industry." The Board agrees that "what is compelling is that the porters are asking for what has now become a generally accepted minimum standard." The Board concludes that "In 1963 the Board finds no justification for denying to sleeping car porters the principle of the 40 hour week." But, by the time the Board came to make its ultimate recommendations on this issue, these wholly valid conclusions were somehow forgotten. For the Board does not recommend a 173 hour month; it recommends a 180 hour month, and this is not the equivalent of a 40 hour week. And it does not recommend the reduction even to the 180 hours "in 1963", but after a further delay of 30 months. To require the porters to wait for still another 2½ years to obtain a standard of hours that the bulk of all other railroad employees have enjoyed for 15 years (and that other American workers have enjoyed for almost 30 years) is to deny justice by delaying it unreasonably. Our members will not be content with lip service to an abstract principle. They are entitled to a 40 hour week, and they are entitled to have it now.

We have asked for a wage increase of 25¢ an hour. The evidence demonstrated that the difference between that amount and the 10.28¢ negotiated by the non-operating employees was justified by the need to correct a serious inequity which had arisen in the years prior to 1937 when the porters were without any collective bargaining representation, an inequity that has never been corrected, because since 1937 the porters have received only the same cents per hour increases as the non-operating employees. To this contention the Board says only that: "It is unable to conclude that because porters have been receiving since 1937 the same cents per hour adjustments as other organized non-operating employees, they were the subject of a gross inequity during the period when they were unorganized and did not receive the same wage increases."

We cannot make any sense out of that statement; it misses the point completely. When we then find the Board stating that: "The fact that porters received different and lower wage increases than did, for example, sleeping car conductors and express messengers during the years in question, may connote a difference in the content of these job categories warranting variant wage treatment." -- a contention not even advanced by the carriers and as to which there was absolutely no evidence -- we realize that the Board simply chose to close its eyes to the glaring inequity in the hope that it would just go away.

As if this were not enough, the Board then proceeds to recommend a wage settlement that would reduce by one-half the 10.28¢ per hour which it repeatedly admits the porters would otherwise have obtained in the light of the last non-operating employees settlement. Its asserted justification is that the porters should share part of the cost of the hours reduction, and it cites as a precedent the fact that the Leiserson Board provided an increase of 7¢ for the non-operating employees at the time of their work week reduction when those employees would otherwise have been entitled to 10¢. But the cost impact upon the railroads -- as the Leiserson Board saw it -- of reducing the hours for the more than 900,000 employees involved in that case bears no resemblance to what was before this Board, where the evidence showed that total cost of all of our proposals on all issues amounts to about five one hundredths of one percent of the operating revenues of the railroads who must ultimately meet that cost. What is more, the employees before the Leiserson Board were being asked to suffer a reduction of 3¢ an hour in what would otherwise have been their wage increase, for a period of 8 months (a reduction later restored in full) while this Board asks our men to suffer a reduction of 5.14¢ an hour for almost 4 years. Such disparate treatment of these porters has no justification in logic or justice. The wage increase of 5.14¢ recommended by this Board is not even within hailing distance of what the evidence shows these men are entitled to.

We have asked for reasonable provisions -- similar to those already covering many other railroad employees -- to stabilize the employment of sleeping car porters, and to provide some reasonable measure of protection against the overwhelming insecurity of employment these men face. On this score this Board recommends nothing that even begins to meet the problem. After enunciating statement after statement expressing the pious concern of the Board for the plight in which these men -- particularly as Negro workers -- find themselves when a railroad decides to take over the operation of sleeping car service, the Board then hides behind what can only be described as a legal fiction. It reasons that those other carriers are not technically before this Board and it cannot make recommendations which would impose obligations upon those other carriers. But those other carriers -- together with the carriers before this Board -- are the sole owners of the Pullman Company. Any obligation imposed upon the Pullman Company is in fact an obligation imposed upon the carriers that own all of the stock of Pullman. The cost of applying the Washington Agreement to situations in which a carrier takes over the sleeping car service from the Pullman Company stands in no different position than the cost of paying the wages of Pullman porters -- a cost now shared between Pullman and the carriers. Sleeping car porters are entitled to the same kind of job protection that is now rapidly emerging in the case of other railroad employees. They cannot in good conscience be asked to permit the railroads to escape their responsibility in this area by claiming that we must look only to Pullman, while Pullman, in turn, says it is helpless and sends us back to the railroads. It is regrettable, to say the least, that this Board permitted itself to be taken in by such a game of "hide and seek."

At a time when throughout this nation there is a growing desire to remove long-standing injustices against all groups who have been the victims of such injustices, there is no possible justification for a report which recommends the continuation (and even the aggravation) of inequities that should have been removed years ago.

ARTICLE I - REDUCTION IN HOURS OF BASIC MONTH

The hours of the basic work month shall be reduced from 205 to 180 hours, with maintenance of the monthly rates of pay then in existence, in accordance with the following schedule:

a. Effective ________________ 196_ , an initial reduction in hours from 205 to 195;

b. Effective ________________ 196_ , a second reduction in hours from 195 to 190;

c. Effective ________________ 196_ , a third reduction in hours from 190 to 185; and

d. Effective ________________ 196_ , a final reduction in hours from 185 to 180.

Effective simultaneously with each of the above mentioned reductions in the hours of the basic month all rules in the existing agreement shall be changed to conform thereto. For example, at the time of the initial reduction in hours under (a) above, the basic hours shall be changed from 205 to 195; the 6:50 hours per day shall be changed to 6:30 hours per day. (The following is applicable to Pullman only: 10:15 hours (1-1/2 days) shall be changed to 9:45 hours, and 13:40 hours (2 days) shall be changed to 13:00 hours.)

ARTICLE II - WAGE INCREASE

A wage increase of 5.14¢ per hour shall be granted effective ____________________, 196_. The monthly rates of pay shall be increased by $10.02 (5.14 cents multiplied by 195, the number of hours comprehended by the basic month effective ________________, 196__).

ARTICLE III - MARGIN OF PRO RATA OVERTIME

The existing 35 hour margin of pro rata overtime shall be reduced to 10 hours effective ______________, 196__.

It is further agreed that concurrent with the signing of this Agreement a Memorandum of Understanding will be agreed upon and executed to revise the existing rules directed toward minimizing the amount of overtime which may be accrued by employes operating on the extra boards.

ARTICLE IV - ADVANCE NOTICE OF ABOLITION OF REGULAR ASSIGNMENTS

Effective ____________, 196__, five calendar days notice of abolition of regular assignments shall be given to employes operating in runs which are permanently discontinued. However, this rule shall not apply under emergency conditions such as flood, snow storm, hurricane, earthquake, fire or strike, provided the Company's (or Carrier's) operations are suspended wholly or in part and provided further that because of such emergency the work which would be performed by the incumbents of the assignments to be abolished or the work which would be performed by the employes involved in the force reductions no longer exists or cannot be performed. Under such circumstances not more than 16 hours advance notice of abolishment shall be required.

(The following paragraph is applicable only to The Pullman Company:)

Provided further, no liability shall accrue to The Pullman Company in unusual instances where a railroad fails to give The Pullman Company sufficient advance notice to enable it to comply with this rule. In the latter instances The Pullman Company will, as promptly as is practicable, notify the employes whose regular assignments are permanently discontinued.

ARTICLE V - TRANSFERS OF SERVICE (Applicable only to The Pullman Company)

The Pullman Company agrees that in the future when it receives notice from a railroad that such railroad intends to take-over its own sleeping car service, Pullman management will in cooperation with the Brotherhood of Sleeping Car Porters promptly urge such railroad, in hiring sleeping car porters for the service so taken over, to accept and consider, in preference to other applicants, the applications from porters who are then on Pullman seniority rosters; provided, however, that no railroad shall be urged to take any action which would violate any provisions of the Railway Labor Act or any agreement with the Brotherhood of Sleeping Car Porters or any other labor organization.

ARTICLE VI - RETROACTIVE LUMP SUM ADJUSTMENT

A retroactive lump sum computed on the basis of the 205 hour month shall be paid for each hour of compensation to each employe covered by this agreement, as follows:

2¢ per hour for each hour paid for
effective February 1, 1962, to and including
April 30, 1962; and
5.14¢ per hour for each hour paid for
effective May 1, 1962, to and including
______________, 196__.

ARTICLE VII - MORATORIUM ON INCREASES OR REDUCTIONS IN RATES OF PAY

No proposals for changes in rates of pay shall be initiated or progressed by the employes against (The Pullman Company or the Railroads) or by (The Pullman Company or the Railroads) against its employes represented by the Brotherhood of Sleeping Car Porters to become effective within a thirty month period from ________________196__.

ARTICLE VIII - EFFECT OF THIS AGREEMENT

This Agreement is in settlement of the disputes growing out of notices served on or about September 1, 1961 and March 8, 1962, by the Brotherhood of Sleeping Car Porters and the notice served by (The Pullman Company or the Railroads) on or about ____________, 196__. This Agreement shall remain in effect until changed or modified in accordance with the provisions of the Railway Labor Act with the understanding, as provided in Article VII, that no notices will be served by either party to change the rates of pay resulting from Articles I and II of this agreement to become effective before ___________, 196__.

(Draft)

MEMORANDUM OF UNDERSTANDING CONCERNING REVISION OF RULE 46. OPERATION OF EXTRA EMPLOYES OUT OF HOME STATION.

It is hereby understood and agreed that Rule 46. Operation of Extra Employes Out of Home Station of the Agreement between The Pullman Company and its employes represented by the Brotherhood of Sleeping Car Porters, last amended effective May 12, 1953, shall be revised as follows effective _____________, 196_:

(a) (Revised) Employes when available, except as provided herein, shall be assigned in accordance with hours paid and hours assessed as accumulated in the current month. Upon return to his home station, each employe shall promptly inform the signout office of the total number of hours paid and hours assessed which he has accumulated in the current month. Employes may report in person or by telephone to the signout office. Employes shall be furnished an assignment slip showing time and place required to report for duty, also destination.

NOTE: The words "employe" or "employes" as used throughout this Rule mean an extra employe or extra employes.

The words "hours paid" as used throughout this Rule mean the hours which will be paid for the service performed and this term is used to distinguish these hours from those which may be credited for certain service but which would not be equivalent to the hours paid.
See exception in paragraph (i) of this Rule.

(b) (No change) A regular signout period shall be established in each district and agency where a porters', attendants', maids', or bus boys' roster is maintained, at which time assignments will be made for a succeeding 24-hour period. Such 24-hour period shall be designated as a signout day, and the specific starting hour of the signout day shall be determined by local conditions. The signout period shall be determined by local conditions. The local representative of the Brotherhood of Sleeping Car Porters shall be notified in writing by the district representative at least 5 days in advance of any change in the schedule of the signout period or the signout day and bulletin shall be posted for the information of the employes.

(c) (Revised) At the beginning of the signout period, all known assignments which have a reporting time falling within the next signout day shall be listed in the order of reporting time separately for each group of employes carried on rosters. Road service assignments (which include deadhead assignments) shall first be grouped in chronological order. During the specific signout period, such assignments shall be held for the required number of employes in the order of their standing on the extra list, the employe with the lowest total number of hours paid and hours assessed to be assigned first, the employe with the next lowest total number of hours to be assigned next, etc. Those employes who are excused or who fail to make themselves available shall be assessed the average of the total number of hours paid and assessed (to be determined as provided in Question and Answer 1 of this Rule) against their previous total number of hours paid and assessed to determine their new positions on the extra board at the close of the signout period.

Q-1. How will the daily average of hours paid and hours assessed be determined?

A-1. By adding the total hours paid and hours assessed of the employes who are in the home station at the close of the signout period that particular day and dividing the result by the number of employes involved, then dividing by the date of the month. Time 30 minutes or under will be assessed as 30 minutes and time over 30 minutes will be assessed as one hour.

(New) Until hours paid or hours assessed have been acquired in the current month, employes shall be assigned in accordance with their hours paid and hours assessed accumulated for the preceding month, the employe with the least number of such hours to be assigned first, continuing until all employes in this group have been assigned, after which the employe with the least number of hours accumulated in the current month shall next be assigned. When hours paid and hours assessed have been acquired in the current month, employes shall then be assigned on the basis of those hours.

(d) (No change) An employe released at his home station following a road service assignment must register in person or by telephone before he will be considered for another assignment. He will be considered for assignment during a signout period only if he has previously registered at least one hour prior to the scheduled start of the signout period; however, if he registers during the signout period, he shall be considered for assignments to be filled after the signout period is completed. It shall be the obligation of each employe to contact the signout office during the signout period to receive an assignment to which he is entitled.

(e) (Revised) An assignment remaining unfilled at the close of the signout period and all assignments developing after the beginning of the signout period which have a reporting time prior to the end of the signout day shall be made to the remaining available employes of that group, according to their standing on the extra list, who are registered for that signout day. Thereafter, station duty assignments, having been grouped in chronological order, shall be made. Employes excused from these assignments shall immediately be assessed the average of the total number of hours paid and hours assessed (as determined by the provisions of Question and Answer 1 of this Rule), except that an employe excused from station duty shall not be assessed the average hours.

An employe assigned to station duty shall be given a road assignment which both arises and has a reporting time during his tour of station duty. Where sufficient employes are available, employes shall not be assigned to station duty for the following morning when it is practically certain they will get a road assignment that day.

(f) (Revised) Road service assignments having the same reporting time shall be assigned in accordance with their destination, starting with the one with the farthest destination. When there is service requiring two or more employes with the same reporting time and employes eligible under this rule have the same total number of hours paid and hours assessed, the senior employe shall be given the assignment with the farthest destination.

Likewise, when there is requirement for one employe and there are two or more employes eligible under this rule whose total number of hours paid and assessed are the same, the senior employe shall be given the assignment.

(g) (No change) An employe whose assignment is canceled or an employe who reports at his home terminal after the assignments have been made for the day shall not be privileged to displace another local employe of his group already assigned, but may displace a regularly-assigned employe who is being "doubled." An employe shall not be removed from an assignment after reporting time of the assignment.

(h) (Revised) An employe assigned under this Rule and later excused from the assignment shall be assessed the average of the total number of hours paid and hours assessed (as determined by the provisions of Question and Answer 1 of this Rule).

(i) (Revised) Witness service of less than one day's pay, station duty and "called and not used," shall not be considered as "hours paid" for the purposes of this Rule.

(j) (No change) This Rule shall not operate to prohibit the use of an employe out of an away-from-home station (including an intermediate station) in service moving toward his home station on a direct railroad route having through Pullman service or by a rail route diverging in mileage from the direct route not to exceed 15 per cent or to a point within a radius of 50 miles of his home station. The 50-mile radius shall be applicable when the 15 per cent of the mileage off the direct route is less than 50 miles.

Q-2. What is meant by "the direct route" as used in this paragraph (j)?

A-2. The direct route means the railroad route with the shortest mileage between two points.

(k) (Revised) An employe absent from service within a calendar month because of illness, injury, suspension or on a leave of absence shall be assessed for each day that he is unavailable during the month the average of total number of hours paid and hours assessed (as determined by the provisions of Question and Answer 1 of this Rule). (An employe suspended shall be given definite advice of the date and hour the suspension expires.)

(l) (Revised) An employe who is to be added to or returns to the extra board for any reason on any day during a calendar month shall be assessed the average of the total number of hours paid and hours assessed of the extra employes who are in the home station at the close of the signout period of the preceding day. This assessment shall be calculated by adding the total hours paid and hours assessed of the employes who are in the home station at the close of the signout period of the preceding day and dividing the result by the number of employes involved. Time 30 minutes or under will be assessed as 30 minutes and time over 30 minutes will be assessed as one hour.

(m) (Revised) A daily record shall be kept at each district and agency showing the employes available for the signout period, listing them according to their total hours paid and hours assessed, the employe with the lowest total hours being listed first, employe with the next lowest total second, etc., covering all assignments of employes, both local and foreign. The daily record shall also include notations indicating date and time requests for cars were received from the railroads covering assignments made after the close of the signout period. These records shall be kept on a uniform basis in all districts and agencies and shall be available for inspection by employes or their representatives at any time.

Exceptions to signout provision:

(1) Use of employes while serving their 6 months' probationary period.

NOTE: It is understood that under this exception the Management will use such employes with a view to giving them the greatest variety of experience.

(2) Use of employes with less than 2 years' service in filling "in-charge" assignments.

NOTE: When no two-year employes are available on the extra list, regular line employes may be used.

(3) Use of employes (including those in regular assignment), irrespective of seniority or assignment, in filling private car or unusual special service requirements.

(No change in Questions and Answers 3 and 4 below)

Q-3. What is a private car?

A-3. A private car is a railroad private car or railroad business car operated by The Pullman Company for an individual of prominence.

Q-4. What constitutes an unusual special service requirement?

A-4. A car provided for an individual or individuals of prominence such as the President of the United States, the Governor of a State, or the President of a Railroad Company. This exception is not to apply to special service tours such as for Kiwanis Clubs, chambers of commerce, and fraternal organizations.

* * * * *

Signed at Chicago, Illinois, this _____ day of __________________, 196__.

For the Company:

For the Employes:

____
Asst. Vice President, Operating

____
International President, Brotherhood of Sleeping Car Porters.

NEW YORK CENTRAL RAILROAD CO.
EXHIBIT No. 3
WITNESS: C. I. HOPKINS, JR.

Before The President's Emergency Board No. 155

SLEEPING CAR PORTERS' 1963 WAGE AND RULES CASE

APPLICANTS' PROPOSAL FOR EMPLOYEE PROTECTION IN PRR-NYC MERGER

1963

Before the
INTERSTATE COMMERCE COMMISSION

Finance Docket No. 21989

JOINT APPLICATION
of
THE PENNSYLVANIA RAILROAD COMPANY
and
THE NEW YORK CENTRAL RAILROAD COMPANY

Statement of
GUY W. KNIGHT,
VICE PRESIDENT-LABOR RELATIONS
THE PENNSYLVANIA RAILROAD COMPANY

Statement of

GUY W. KNIGHT

My name is Guy W. Knight. I am Vice President, Labor Relations of The Pennsylvania Railroad Company, with offices at Six Penn Center Plaza, Philadelphia 4, Pennsylvania.

I entered the service of the Pennsylvania in June, 1934. I held various positions in the Legal Department until, in 1948, I became General Attorney, which position I held until 1955. Throughout this period, my primary assignment was to the field of railroad labor relations law, labor litigation and advice to the labor relations and other departments concerning the legal aspects of grievances and contract negotiations. I represented the Company in the courts and before Emergency and Arbitration Boards and the National Railroad Adjustment Board. During this time, upon various occasions, I served as Counsel for the Eastern Railroads and as General Counsel for all the Railroads in national labor cases before Emergency Boards and in national negotiations.

In 1955, I became Director of Labor Relations and in January, 1962, I was appointed to my present position. During the time I have been in the Labor Relations Department, I have served as a member of various Eastern Carriers' Conference Committees appointed to deal with railroad labor unions in national issues and have served as Chairman of such committees upon several occasions.

The Department, of which I am the head, on the Pennsylvania, is responsible for the formulation of the basic labor relations' policy of the Company and for its administration, as well as for the negotiation of all collectively bargained labor agreements applicable to the System, and for the final stage in the handling of grievances.

In the Joint Application dated March 9, 1962, the Applicants stated that appropriate terms and conditions for the protection of employees would be agreeable to them. The principal purpose of my statement is to set forth and explain the Applicants' position as to the particular plan of protection they consider to be best suited to the circumstances of this case as a "fair and equitable arrangement to protect the interests of the railroad employees affected."

Briefly, it is our position that the Commission should prescirbe the so-called "New Orleans Conditions" as regards the type, amount and duration of protective benefits, modified to conform to the circumstances of this proposed merger in two important respects: (1) the use of affected employees to fill available jobs, and (2) establishment of a single effective procedure, in place of two ineffective and conflicting ones presently provided, for disposing of disputes. Before amplifying these points -- and to place the discussion in proper context -- it may be helpful to describe several features of the labor relations structure on these two railroads, which, in our opinion, clearly indicate the necessity for the establishment of an effective, workable, expenditious procedure such as we propose for handling disputes.

The total employment of the Pennsylvania and New York Central Railroads, based on their combined average mid-month count of employees during the year 1961, was 120,416. Of these, about 110,000 employees are covered by agreements governing wages and working conditions held by one or another of 31 national or international labor organizations. In all, there are 130 basic schedule agreements currently in force on the two railroads: 34 agreements with 24 unions on the Pennsylvania, and 96 agreements with 26 separate organizations on the Central.

Generally speaking, unions representing railroad employees are organized along craft lines. And, while it is true that employees in some classes or crafts are represented by the same union on both railroads, this is by no means true in all cases. In fact, there are at least 13 instances of conflicting representation between major employment classifications, involving more than 30,000 employees on the two roads. For example, on the Central the Order of Railway Conductors and Brakemen represents road freight and passenger conductors whereas employees of the same class are represented by the Brotherhood of Railroad Trainmen on the Pennsylvania.

Gang foremen and inspectors are represented by the Brotherhood of Railway Shop Craft Supervisors on the Pennsylvania Railroad, but by the American Railway Supervisors Association on the New York Central. Dining car stewards, dining car cooks and waiters, police, and yardmasters are each represented by different unions on the two railroads. Train Dispatchers are represented by the American Train Dispatchers Association on the Pennsylvania but on the northern district of the Central are represented by the Order of Railroad Telegraphers.

The situation among the shop craft employees is even more complex. On the Pennsylvania, the carmen and coach cleaners are represented by the Transport Workers Union -- on the Central by the Brotherhood of Railway Carmen of America; laborers and power plant employees by the Transport Workers Union on the Pennsylvania -- by the International Brotherhood of Firemen and Oilers on the NYC; electricians by the TWU on the PRR -- by the International Brotherhood of Electrical Workers on the NYC. In fact, representation of shop craft employees on the Pennsylvania itself is split between the Transport Workers Union, which represents the classes above referred to, and the International Association of Machinists, the International Brotherhood of Blacksmiths, and the Sheet Metal Workers International Association which represent the balance of shop craft employees in the crafts indicated by the names of the unions.

The multiplicity of unions, together with the fact that, in many instances, classes represented by one union on one of the railroads are represented by a rival union on the other railroad, plus the large number of basic agreements in effect make it perfectly obvious that everyone is not going to be in ready agreement as to the proper application of the protective conditions imposed by the Commission, the selection, assignment or rearrangement of forces necessary to implement the merger or other matters having to do with labor problems in connection with transactions to be undertaken as a part of the merger. This is true even if all parties concerned were motivated by the most sincere and urgent desire to dispose of all such problems without dispute or controversy -- a condition which we would be naive, indeed, to expect in view of the fact that 20 of the larger unions representing 95% of the two carriers' employees covered by agreements have intervened in this proceeding in opposition to the merger and many of them have announced publicly and repeatedly that they are so opposed.

It is all too apparent, then, that there will be many disputes and controversies arising out of the protection of employees adversely affected and other aspects of the labor situation covered by the Commission's Order.

Unless the public interest in this merger is to be ignored and the action of the Commission in approving it is to be frustrated by an accumulation of such disputes without adequate means to solve them, and, consequently, without realistic means of accomplishing the implementation of the merger, it is vitally necessary for the Commission to provide an expeditious method of finally disposing of them. The present conflicting, cumbersome, time-consuming procedures provided by the Oklahoma Conditions and the Washington Agreement (as constituted the New Orleans Conditions) are inadequate for this purpose.

Therefore, I would now like to explain Applicants' proposals for modifications in the New Orleans Conditions and the reasons therefor, including a proposed procedure for the disposition of disputes, which - while not different in principle from the arbitration provisions which are customarily prescribed - is more realistic and workable and more expeditious for application in the present case.

For ready reference, I have attached to this statement (for incorporation herein) a six-page appendix entitled

"Applicants' Proposal for Conditions for the Protection of Employees" setting forth the terms of the New Orleans Conditions as prescribed in New Orleans Union Passenger Terminal Case, 282 ICC 271, 281-282, with changes in language appropriate to conform the terms to the circumstances of the present case, and with the modifications previously referred to.

As is well known, the New Orleans Conditions are a combination and adaptation of two separate but related plans which, separately, have provided the bases for employee protection in the railroad industry for a number of years. In effect, the New Orleans Conditions superimpose the terms of the Washington Agreement (dated May 21, 1936) with a minor limitation, on the conditions first prescribed in Oklahoma Ry. Co. Trustees Abandonment (257 ICC 177, 197-201, May 17, 1944), so as to provide all employees with the minimum protection of the Washington Agreement from the date they are first affected, with those affected within the first four years of the Commission's Order entitled to the more liberal allowances provided by the Oklahoma Conditions. The provisions of these two plans are too well known to require reiteration. In combination, the principal features of the plans provide for --

(1) Displacement Allowances for employees who continue in service, but in a "worse position" with respect to compensation and rules governing working conditions;

(2) Dismissal Allowances for employees temporarily or permanently deprived of employment;

(3) Separation Allowances for "dismissed" employees who elect to sever their employment relation with a lump sum payment in lieu of the monthly allowance and all other benefits;

(4) Incidental Benefits of Previous Employment preserved during the protective period for employees adversely affected by displacement or dismissal;

(5) Reimbursement of Transfer Expenses, including time lost, real estate losses, living, travel, and moving expenses to new point of employment requiring a change of residence.

(6) Prior Notice and Negotiation concerning "coordination" of particular services, operations and facilities which result in displacement of employees or rearrangement of forces; and

(7) Procedures for Settlement of Disputes concerning (a) protection, (b) matters connected with a particular coordination, (c) real estate losses and related matters.

Now, with reference to the proposal appended to this statement, the first paragraph is little more than the declaration of intent embodied in Section 1 of the Washington Agreement, with appropriate language changes. The definition of "transaction" has been enlarged beyond the definition of "coordination" contained in Section 2 of that Agreement so as to include a unification, consolidation, etc. of facilities or operations or services solely on one of the two railroads as well as such action involving both railroads (to which the term "coordination" in the Washington Agreement applies). The Applicants believe that the protective payments should be made to employees adversely affected by a "transaction" involving the unification, etc. of the facilities, services, or operations intra one of the railroads alone so long as it is the result of and part of the merger, as well as to employees similarly affected by a coordination of the facilities, operations or services of one road with that of the other railroad. The proposed definition of transaction would accomplish that and would, so far as Applicants can determine, include all types of action to be taken by the carriers for which protection should be provided. It seems obvious that activities which are not the result of, or part of the merger at all but are simply the normal type of activity which a carrier might undertake entirely aside from the merger -- and probably would take even if there had been no merger -- should not involve any protective conditions established by this Order.

The underlying purpose of these protective arrangements is to facilitate adjustment to employment changes without undue hardship to employees affected produced by the integration of services, operations and facilities pursuant to the Commission's authority. By including a definition of the term "transaction", it was out aim to confine claims for protection to those arising out of changes undertaken pursuant to the Commission's authority by the Applicants in effectuating the merger and to eliminate those which are due to changes which are not the result of, or part of the merger. General terms of indefinite meaning such as "transaction", "coordination" or "merger" indicate the desirability of giving them definite meaning so as to circumscribe the areas of doubt or controversy which might attend future technological or organizational changes which may be instituted by the carriers having nothing to do with the merger but following it in point of time.

In addition, of course, protective conditions should not apply to employees displaced or dismissed due to traffic decline, increased costs or similar causes not connected with the merger.

This prompts me to call attention to the term "employee" as used to describe classes of persons who are entitled to the benefits of these conditions. Certainly, it should be understood to include only persons holding an employment relation with one of the Applicants on the date of the Commission's Order (or reasonably related date). It is important that this matter be made clear so as to exclude persons entering services after the merger is approved. As has been explained by other witnesses, certain of the operating changes necessary to effectuate the merger are contingent upon completion of an extensive capital improvements program which may require augmentation of the work force at certain points, and for limited periods of time, between the date of the merger and the date on which some of the operating changes will be made. Persons who first enter the service during this period will be predominantly temporary or part-time workers who will come into the industry with actual knowledge of the merger and the fact that there is little prospect of their employment being permanent. There are no savings attributable to the merger to be realized from the elimination of such a position added after the merger and, therefore, no fund from which allowances can be paid to new employees who may thereby become displaced or dismissed, as the case may be. This principle is recognized by the Oklahoma Conditions in that the protection is cut off upon expiration of a period equal to the employee's length of service prior to the Order, which, in the case of a new entrant, would be none. The Washington Agreement avoids the problem because it applies to a particular change in operations or services rather than a series of different changes to take place over a period of time at various locations, as contemplated by the merger.

Therefore, we have proposed, in paragraph (a) of the Appendix, that the employees entitled to protection be those of the two Applicants who are employees "on the effective date of /the Commission's/ order of approval."

The first of the two major modifications previously mentioned appear in subparagraphs (1) and (2) of provision (b) of the Appendix. They relate to the use of adversely affected employees to fill available positions by exercise of seniority, or by reason of the fact that the carriers, or surviving carrier, offers them a reasonably comparable position for which they are qualified.

Subparagraph (1), which applies to the exercise of seniority, contemplates that an affected employee may be required to exercise such seniority as he may acquire by agreement made after the approval of the merger or by an award made pursuant to the proposed disputes procedure referred to above (and discussed in detail below), as well as seniority which he holds at the time of approval.

Both the Oklahoma Conditions (in Condition No. 4) and the Washington Agreement in Section 6(a) require that a displaced employee shall exercise his seniority rights "under existing agreements, rules and practices" to obtain a position producing compensation equal to or exceeding the compensation of the position from which he was displaced.

before he can receive any allowance. The language "under existing agreements, rules and practices" is inappropriate and improper if applied to a merger such as the one for which authority is here sought. This language is appropriate to the factual situations involved in coordinations under the Washington Agreement as that agreement was originally intended by the parties to it. This is true because, when a coordination took place, agreements must already have been made providing for any additional seniority rights of employees involved or such matters must have been disposed of by arbitration under the disputes procedure of the Washington Agreement and, consequently, at the time the coordination was finally effected any changes in the seniority rights of the employees to conform to the necessities of the coordination had already been accomplished. Therefore, the language in the Washington Agreement, "existing agreements, rules and practices" included changes in seniority rights made in contemplation of and pursuant to the act of coordination and prior thereto.

In this present case, however, if this language were applied to agreements, rules and practices in effect upon the date of approval, it would exclude the exercise of any seniority rights by such employees which would be conferred upon them by agreement between the carrier and the unions made subsequent to the date of approval or established as a result of the disputes procedure if agreement cannot be reached. Certainly, such seniority rights conferred upon employees in contemplation of and in connection with the various coordinations, unifications, etc. which will occur as the result of the merger should be exercised by such employees before they are entitled to a displacement or dismissal allowance. In fact, seniority rights existing prior to the approval of the merger may be enlarged or changed in other respects by agreement with the unions after approval and, consequently, any language which would make it unnecessary for employees to exercise such seniority rights after the date of approval in order to obtain an allowance would obviously be improper. The proposal in this respect makes no change in the protective theory of the Oklahoma Conditions or the Washington Agreement but simply makes the intention of those devices applicable to a merger of the type herein involved instead of to the limited situations involved in the Oklahoma case and the original Washington Agreement.

Subparagraph (2) deals with the problem which arises when there is work to be performed but no one with seniority in the particular class or craft to take the job. To avoid the spectacle of the carrier having to go outside to hire new workers while paying allowances to qualified employees who have been displaced or dismissed from reasonably comparable jobs, we are proposing that before an employee can be entitled to an allowance he should be required to accept such a position.

This arrangement makes no inroads on the rights of others, and does not impair the original seniority of the affected individual. Rather, it confers on him new rights in the new position. If an employee who would otherwise be dismissed takes such a position he cannot lose any compensation to which he would be entitled if he were dismissed and he would have acquired an additional job opportunity. On the other hand, if he is not required and does not take such a position, his dismissal allowance will eventually expire and he still may not have a job. There would appear to be no justification for providing a man with a dismissal allowance for remaining unemployed, when there is work available for which he is qualified. Mobility traditionally has been characteristic of railroad employment, and our proposal would recognize this fact and at the same time enlarge the employment opportunities of our personnel.

The Presidential Railroad Commission, which I have already mentioned, examined this matter of mobility in the railroad industry and concluded that it is "a normal concomitant of progress and change in an industry so widely dispersed as is the railroad industry . . ." The passage from the section of the Report dealing with this subject is enlightening. The Presidential Commission said (p. 162):

> "It is, of course, not pleasant to be required to uproot a family, break community ties and move to another locality to maintain one's employment. Mobility, however, has always been characteristic of many kinds of employment. Prudent management does not arbitrarily make changes which require relocation of personnel, but economic necessity frequently dictates change.
>
> "Enlightened employers recognize that employees should be protected from some of the adverse effects which may be attendant upon a managerial decision to relocate facilities. Such protection usually takes the form of assuring employees that they will suffer no losses in the sale of their homes because of decreased market values occasioned by such decisions to relocate and reimbursing them for moving expenses."

The matter of mobility of employees has received the thoughtful attention of many distinguished persons concerned with the economic progress of the nation. In 1961, an independent study group composed of leading scholars in the fields of economics and labor relations published a comprehensive report under the auspices of the Committee on Economic Development entitled "The Public Interest in National Labor Policy." In the section of the Report dealing with the effective adaptation of manpower to changing conditions, the Study Group stated, in part:

> "Thus in our recommendations we recognize both sides of the coin: the need to encourage change and the importance of learning how to adjust to change, the pace of which is rapid in many

> sectors of the economy . . . /I/t is important to see that private arrangements do not block or hinder unduly developments that are desirable. *The key to this problem is mobility of human resources."* - (pp. 122-123, emphasis supplied.)

The foregoing principles, considered in the light of the generous provisions of the New Orleans Conditions for reimbursement of transferred employees for travel and living expense for themselves and their families, time lost, real estate losses, and the like, together with the protection of earnings would seem to remove any question that the proposed changes are in the interest of the employees and the carriers in efficient effectuation of the merger, and in the national interest as well.

The final change which we urge the Commission to incorporate in the New Orleans Conditions comprises a more precise and expeditious procedure for the disposition of disputes which may arise between the employees and the carrier. The language we suggest is set forth in the Appendix to this statement. For the reasons which I have already referred to growing out of the complexity of union representation and jurisdiction on these two railroads and for other reasons which I will explain in a moment, we consider such changes in the dispute provisions to be of the utmost importance to the implementation of the merger.

One of the primary purposes of the modifications we propose is to avoid the uncertainties inherent in the overlapping of the arbitration provision of the Oklahoma Conditions and that of the Washington Agreement, both of which procedures are incorporated by reference in the New Orleans Conditions. We also have attempted to overcome the excessive delays inherent in the existing arbitration procedures which have provoked the strenuous objections of the labor organizations and others. Finally, we have undertaken to clarify the intent and scope of the arbitration procedure by use of language more nearly conforming to the circumstances of a merger case. This is intended to eliminate the ambiguities incident to engrafting the Washington Agreement onto the Oklahoma Conditions, each of which employs terms such as "coordination" or "transaction" originally adopted for application to situations other than corporate mergers. I wish to emphasize at the outset that the Washington Agreement, which is incorporated in the New Orleans Conditions, now provides in Sections 13 and 4 and 5 for the arbitration of disputes between the employees and the carriers. What we have done is adapt that arbitration procedure to the particular circumstances of the merger and at the same time eliminated ambiguities and delays inherent in the existing procedures. It will be noted that we have not included in the proposed arbitration procedure, disputes arising under Oklahoma

Condition 9 and Section 11 of the Washington Agreement. These provisions deal with the determination of real estate losses and are adequate and appropriate to the circumstances covered thereby. Incidentally, these matters are presently excluded from the arbitration procedures of the Oklahoma Conditions and the Washington Agreement.

I shall now comment briefly on the particular modifications we propose and the reasons for them.

Oklahoma Condition No. 8 (incorporated by reference in the New Orleans Conditions) provides as follows:

> "8. In the event that any dispute or controversy arises with respect to the protection afforded by the foregoing conditions Nos. 4, 5, 6, and 7, which cannot be settled by the carriers and the employee, or his authorized representatives, within 30 days after the controversy arises, it may be referred, by either party, to an arbitration committee for consideration and determination, the formation of which committee, its duties, procedure, expenses, et cetera, shall be agreed upon by the carriers and the employee, or his duly authorized representative."

The New Orleans Conditions also provide for application of "the terms of the Washington Agreement of May 21, 1936, ..." subject to the limitations I have already mentioned. Section 13 of the Washington Agreement establishes a disputes procedure for determination of any controversy arising "in connection with a particular coordination, including an interpretation, application or enforcement of any of the provisions of this agreement . . . ." It has been held by a referee considering a dispute referred to the Section 13 Committee that where the New Orleans Conditions apply, both the disputes procedure under Section 13 of the Washington Agreement and the arbitration procedures of the Oklahoma Conditions are available (Docket Nos. 27 and 64). Therein lies a part, but by no means all, of the difficulty. The overlapping or duplication of arbitration remedies has been vigorously criticized by the labor organizations. Mr. Harold C. Crotty, President of the Brotherhood of Maintenance of Way Employees, testified in the C.& O. - B.& O. Control Case (I.C.C. F.D. No. 21160) on behalf of the Railway Labor Executives Association, and in reference to the Section 13 Referee's decision just cited, stated as follows:

> "One of the effects of the carrier's action was to delay resolution of this dispute as this Committee meets infrequently to decide disputes submitted to it . . . . Disputes arising over Commission-imposed conditions should be subject to but one procedure and that procedure should be mandatory."

In the brief of the Railway Labor Executives Association submitted to the Hearing Examiner in the C. & O. - B. & O. case, it was asserted with respect to the duality of disputes procedures:

> "Such a patently inequitable procedure should not be permitted to exist, and it should be corrected by provision for but one arbitration, and that compulsory on both parties." (RLEA Brief, page 46)

We find ourselves in agreement with the theory of the labor organizations on this point. It is clearly in the interest of all parties that there be a single arbitration procedure and that, therefore, in its adoption of the terms of the Washington Agreement and the Oklahoma Conditions as parts of the New Orleans Conditions, the Commission should expressly substitute for Section 13 of the Washington Agreement and Condition No. 8 of the Oklahoma Conditions a single more effective and more expeditious arbitration provision.

Another respect in which we consider the present abritration procedures--both Section 13 of the Washington Agreement and Oklahoma Condition No. 8--to be gravely deficient is in their lack of provision for prompt handling of disputes. The Oklahoma Conditions are indefinite, actually leaving the procedure and timing entirely unresolved, since these matters are remitted to agreement between the parties. Such indefiniteness can subvert the entire purpose of the arbitration provisions, especially if one party has a private motive for delay or refusal to reach agreement. Section 13 of the Washington Agreement likewise has been characterized by delay in the handling of disputes, since, as Mr. Crotty stated in his testimony on behalf of the Railway Labor Executives Association in the C. & O. - B. & O. case (page 15): ". . . this Committee meets infrequently to decide disputes submitted to it." The fact that delays are inherent in the Section 13 procedure is borne out by the history of the disputes submitted for resolution pursuant to that Section. The first 24 disputes submitted to the Section 13 Committee were decided without the assistance of a referee. However, the cases since that time have taken 2 to 11 years from the date the disputes arose to the date of decision. On the average, the time between the date when a dispute arose and the date of the referee's decision has been over 4 years and the average time between the date of submission of a dispute to the Section 13 Committee and the date of decision has been more than 3 years. We believe that a less cumbersome arbitration procedure than that provided by Section 13 would go far toward overcoming the obstacles which presently exist to the effectuation of coordinations implementing the merger, if for no other reason than through the establishment of a device for prompt resolution of disagreements. While it is true that Section 13 and other Sections of the Washington Agreement comprehend arbitration of failures to reach agreement and so enable the carriers eventually to effectuate their coordination plans, due to the built-in delays the plan may not only be seriously retarded but its purposes may be defeated altogether by the mere lapse of time resulting from unwillingness of the labor organizations to reach agreements.

I believe it is clear from the foregoing discussion that it is essential to overhaul the arbitration procedures prescribed by the Commission in the New Orleans Conditions. We feel that such revisions as we propose not only will conform to the legitimate interests of both the employees and the carriers, but also, and of greater importance, will serve the public interest by circumventing delays which otherwise might interfere with implementation of the Commission's approval of a transaction found to be in the public interest.

In addition to the cumbersome committee character of the arbitration procedure prescribed by Section 13 of the Washington Agreement, and the delays incident thereto, it is also felt to be unsuited to the instant merger because membership on the disputes committee is confined to those organizations and carriers which are signatories to the Agreement. The Transport Workers Union which represents some 11,000 employees on the Pennsylvania, for one, is not a party to the Washington Agreement. Submission of disputes to a committee on which the employees concerned are not represented but on which, in fact, competing unions hold representation is, in our opinion, an improper and unsatisfactory method of disposing of disputes.

The remaining provisions of the arbitration procedure which we propose are designed to clarify the scope of the subject matter submissible to arbitration, in terms appropriate to the merger. The language with respect to disputes over matters of employee protection is merely an adaptation of the language in Section 13 of the Washington Agreement. We also have identified the various types of changes affecting employees which may be undertaken in pursuance of the merger and have made provision for arbitration of disputes or failures to reach agreement with respect to the effects on employees of changes incident to the merger.

The legitimate interest of the employees in connection with the merger will be given full recognition by the New Orleans Conditions as modified in our proposal and the conditions, as so modified, are in all respects consonant with the Commission's obligation to provide a "fair and equitable arrangement" for the protection of employee interests. The Commission stated recently in its report approving the Erie - D.L.& W. Merger in which it applied the New Orleans Conditions: "In our opinion, the conditions which we are imposing here, and have imposed in prior cases under Section 5, afford reasonable protection to employees. . . . ."

The realization of the purposes intended by Congress in the enactment and revision of Section 5 of the Interstate Commerce Act, and of the purposes of the Commission in prescribing conditions for the protection of employees require the adoption of a method for the prompt and orderly resolution of disputes between the carriers and the employees. It is essential that the conditions imposed by the Commission not leave a void or a body of uncertainties and ambiguities in this area which will seriously jeopardize implementation of the merger. A process must be established to prevent frustration of the public interest in the full realization of an approved transaction through the exercise of a veto on the part of a single organization. This is undoubtedly of very special importance in the instant proceeding, in view of the emphatic and unequivocal opposition to the proposed merger on the part of the labor organizations.

I have already referred to the appropriateness of the New Orleans Conditions for protection of employee interests affected through implementation of the proposed merger. However, I believe the question of their adequacy warrants further comment in light of the position taken by labor organizations in recent railroad merger cases, and, more particularly, in light of the public statements of their officials relating to this merger application.

It is unnecessary to recite the origin and long history of Interstate Commerce Commission conditions for the protection of employees but I wish to emphasize that, to my knowledge, the employee benefits contained in the New Orleans

Conditions are the most liberal of those prescribed by the Commission in the past. The employee Organizations have sought with increasing intensity to secure from the Commission conditions imposing on the carriers employee benefits far beyond those of the New Orleans Conditions. Among these efforts have been proposals for a type of job freeze, or for limiting the discontinuance of positions to the rate of natural attrition of employees, irrespective of the lack of need for these positions.

Notwithstanding such proposals of the Organizations, the Commission has consistently applied the Oklahoma or New Orleans Conditions in recent merger cases, finding, as in its report in the Erie-D.L.&W. Merger Case (312 ICC 185), that these conditions "afford reasonable protection to employees." In that proceeding the Commission expressly rejected the Organizations' proposal for a type of job freeze, saying at page 196 of the report:

> ". . . Assuming that we have the power to impose conditions like those requested by the association, in our opinion, such action would not be consistent with the public interest. Conditions calculated to preserve unneeded jobs would unduly restrict the applicants in the establishment of most economical operations, would be wasteful, and would be in conflict with the objectives of the national transportation policy, under which we are enjoined

> to promote economical and efficient service and to foster sound economic conditions in transportation and among the several carriers."

In my opinion, this declaration by the Commission is equally applicable to any so-called "attrition" program of job discontinuance since this, too, necessarily would be "calculated to preserve unneeded jobs."

Another clear indication of the adequacy of the conditions prescribed by the Commission is the fact that workers in no other major segment of the industrial economy are entitled to protective benefits approaching these in scope and generosity. The broad field of employee protection in manpower adjustments, both within the railroad industry and outside, was recently the subject of intensive studies conducted by the Bureau of Labor Statistics (Department of Labor) and several recognized independent authorities under the auspices of the Presidential Railroad Commission. In formulating its recommendations for protective provisions, that Commission concluded that the protection afforded by the Washington Agreement "is liberal compared to that in other industries, because it provides 60 percent of the employee's annual earnings for five years."*

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*Report of the Presidential Railroad Commission, February 1962, p. 46. See also History of and Experience Under Railroad Employee Protection Plans, Appendix to P.R.C. Report Volume III, and Collective-Bargaining Approaches to Employee Displacement Problems (Outside the Railroad Industry), Appendix to P.R.C. Report Volume IV, esp. pp. 193-228, 331-344.

It is significant that, although the Washington Agreement has been widely regarded in the labor relations field as a landmark accomplishment, after 25 years neither its terms nor the fundamentals on which they are based have been widely applied outside the transportation industry. To date, the principal non-railroad application has been brought about by the Civil Aeronautics Board which, in a series of cases involving airline mergers and similar transactions, has imposed what the Board calls its "standard labor protective provisions". In form and in substance, these provisions are almost indistinguishable from the Washington Agreement, from which they were derived. (See Opinion, United-Capital Merger Case, Docket 11699, April 3, 1961, esp. p. 35.) What is "standard" for the airlines is "minimum" on the railroads.

Discussion of adequacy inevitably leads to consideration of protective plans based on the principal of permanent employment, irrespective of need. The commission's view, expressed in the Erie-D. L. & W. Case, appears to be virtually unanimous except among trade unionists themselves. I believe it to be an appropriate conclusion to this statement to set forth passages from the Presidential Railroad Commission Report which indicate its reasons for preferring the Washington Agreement as a plan of protection to those which, though vigorously urged by the labor unions, would conflict with national goals by impeding change essential to the health and survival of the industry:

> "What are the possible steps towards our goals?
>
> "1. A freeze or moratorium on progress. This, as has already been set forth, is no solution. It is so utterly incompatible with American character and history that is is undeserving of serious consideration. Any industry that commits itself to such a policy is already moribund. Its demise is foreordained. Such an industry cannot be looked to for the furnishing of employment in the future. Moreover, a freeze on technological progress is not the approach of the American railroad industry or of railroad labor.
>
> . . . .
>
> "3. Change plus attrition. This polite word, attrition, which means keeping all present employees, regardless of their usefulness, until the end of their working lives, conceals a number of vices.
>
> "a. It means that many employees would devote their time and energy to tasks that need not be done. Such fruitless endeavor does not enhance the human personality. Its true objective is not to furnish employment but to furnish income to the employee whose skill has become superfluous and who has no opportunity for promotion or transfer to a useful task. It ought to be possible to achieve this legitimate end without degrading the employee.
>
> "b. Attrition also means that the nation as a whole is deprived of useful service which potentially retrainable and productive employees coming under such a plan could otherwise render.
>
> "c. Finally, attrition is a slow process. The rate of technological change is now so rapid that attrition alone may not have digested one change before we are caught up in another.

"Rational examination of attrition as a sole remedy leads to the conclusion that it is inadequate.

. . . .

"5. Progress plus protection. A more reasonable approach seems to require a direct accommodation between the two competing interests, change and security, since both are valuable social goals.

. . . .

"Consideration of the form of protective conditions in this industry inevitably starts with review of the provisions of the Washington Agreement of 1936. These provisions, or similar provisions in the Transportation Act of 1940, have been successfully applied to railroad mergers, so that the cost of protection has in fact become a part of the calculation in the development of merger plans. Over time, these provisions have on occasion been extended to non-merger situations - e. g., abandonments and other changes involving only the internal operations of a single railroad Company."
(Report of the Presidential Railroad Commission, pp. 134-141)

Appendix to
Statement of
GUY W. KNIGHT

Applicants' Proposal For

CONDITIONS FOR THE PROTECTION OF EMPLOYEES

The fundamental scope and purpose of the conditions for the protection of employees specified herein are to provide for allowances to employees of The Pennsylvania Railroad Company and the New York Central Railroad Company who may be affected by the proposed merger of such companies approved by this order, and it is the intent that such conditions are to be restricted to those changes in employment solely due to and resulting from such merger. Fluctuations, rises and falls, and changes in volume or character of employment brought about solely by other causes are not covered by or intended to be covered by this order.

The term "transaction", as used herein, means joint action by the two carriers or action by either of them, whereby, as a result of and as part of the merger herein approved, they unify, consolidate, merge, or pool in whole or in part separate railroad facilities or any of the operations or services previously performed through such separate facilities.

We find that a fair and equitable arrangement for protecting the interests of the employees adversely affected by the merger herein will be provided by applying the terms of the Washington Agreement of May 21, 1936, subject to the following limitations, restrictions, or modifications:

(a) That employees of The Pennsylvania Railroad Company or the New York Central Railroad Company (hereinafter referred to collectively as the Carriers) on the effective date of our order of approval, adversely affected by a transaction within four years from the effective date of the Order approving the merger shall receive as a minimum the protection afforded by conditions 4 to 9, inclusive, in Oklahoma Railway Company Trustees Abandonment, 257 I.C.C. 177 (197-201), as modified herein, for the period they are adversely affected prior to /insert date/ (4 years from the effective date of the order of approval), and any such employee so adversely affected who has received under such conditions total dismissal or displacement compensation less than that which he would receive by applying the Washington Agreement, as modified herein, for the full protective period therein provided from the time he is adversely affected, shall continue to receive benefits under the terms of the Washington Agreement, as modified herein, until the total compensatory benefits provided therein for his particular period of service have been paid.

(b) That in applying the Oklahoma Conditions and the Washington Agreement:

(1) A requirement that an affected employee must exercise certain seniority rights before being entitled to an allowance shall not be limited to the exercise of such rights under existing agreements,

rules and practices but shall also include and exercise of seniority rights which may be conferred upon such employee by subsequent agreement or as a result of the procedure set forth in (b)(3) hereof;

(2) No allowance shall be paid to any employee who fails to accept reasonably comparable employment for which he is physically and mentally qualified, offered to him by the carriers, or the surviving carrier, provided his acceptance of such employment does not infringe upon the employment rights of other employees under applicable agreements. Affected employees who accept such employment shall, during the time of such employment, be entitled to allowances in the amounts and for the periods provided by Oklahoma Condition No. 4 or Section 6 of the Washington Agreement, as the case may be.

(3) There shall be substituted for Oklahoma Condition No. 8 and Section 13 of the Washington Agreement, a uniform procedure for the consideration and determination of disputes, except those arising under Oklahoma Condition No. 9 and Section 11 of the Washington Agreement, as follows:

In the event of any dispute or controversy between the carriers, or either of them, and their employees arising out of--

(i) The interpretation, application or enforcement of any of the conditions provided herein; or

(ii) The interpretation, application or enforcement of any agreement entered into between the carriers and the representatives of the employees as contemplated by the Washington Agreement; or

(iii) Failure to reach agreement concerning the selection, assignment or rearrangement of forces, or other changes proposed for the accomplishment of a transaction;

which dispute or controversy is not composed by the parties thereto within 30 days after it arises, may be referred by either party to an Arbitration Committee for consideration and determination. Such Arbitration Committee shall be composed of a representative of each Organization involved, an equal number of carrier representatives and one neutral who shall act as Chairman. Upon notice in writing served by any party on the other party or parties of intent to refer such dispute or controversy to an Arbitration Committee, each party shall, within 10 days of receipt of such notice, select its member or members of the Arbitration Committee and the members thus chosen shall, by majority vote, select the neutral. Should a majority of the partisan members be unable to agree upon the appointment of the neutral within 10 days, any party may request the National Mediation Board to select the neutral, who shall act as Chairman.

If any party fails to name its member or members of the Arbitration Committee within the prescribed time limits, the Committee shall then function as though such member or members had been appointed and its decisions shall have the same force and effect as though all parties had appointed their members. The Arbitration Committee shall meet and begin hearings within 10 days from the date of appointment of the neutral and such hearings shall not exceed 30 calendar days unless extended by a majority of the members of the Committee. Decisions shall be rendered by majority vote of the members of the Committee within 30 days from the date of completion of hearings on a particular dispute and such decisions shall be final and binding upon the parties. The salary and expenses of the neutral shall be divided equally among the parties and all other expenses shall be paid by the party or parties incurring them.

(c) That in applying the Washington Agreement, as modified, the coordination allowance provided therein for dismissed employees shall be reduced with respect to any employee who is otherwise employed to the extent that his combined monthly earnings in such other employment, any benefits received under any unemployment insurance law, and his coordination allowance, exceed the amount upon which his coordination allowance is based; such employee or his representative, and the carriers, to agree upon a procedure by which carriers shall be currently informed of the wages earned by such employee in employment other than with the carriers, and the benefits received.

The intent and effect of the foregoing findings are that all employees adversely affected by the transaction involved should receive the protection afforded by the Washington Agreement, as modified; and that employees adversely affected prior to [insert date] (4 years from the effective date of the order of approval) are to receive as a minimum the protection afforded by the Oklahoma Conditions, as modified, for the period they are adversely affected prior to [same date] but if the total amount of such compensation is less than they would receive under the Washington Agreement, as modified, applied from the date of adverse affect, then they are entitled to the remaining benefits they would have enjoyed under the latter. Should the amount of compensation to which an employee is entitled under the Oklahoma Conditions, as modified, applied to [same date] equal or exceed the amount to which he would be entitled under the Washington Agreement, as modified, then he would be entitled to nothing under the latter.

SELECTED INCOME ACCOUNT ITEMS

CHICAGO, ROCK ISLAND & PACIFIC RAILROAD COMPANY

1961 - 1963

	Annual		6 Months to June 30	
	1961	1962	1962	1963
Total operating revenue	$203,332,262	$200,926,687	$102,652,125	$100,949,225
Operating expenses:				
Maintenance of way	22,762,753	22,990,163	11,348,655	11,445,641
Maintenance of equipment	25,606,510	27,293,786	13,765,771	13,583,347
Transportation expense	83,489,286	84,384,554	42,126,234	42,019,989
Other expenses	17,512,650	17,839,452	9,041,802	8,786,936
Total operating expenses, (excluding depreciation)	149,371,199	152,507,955	76,282,462	75,835,913
Total taxes	16,587,221	12,007,695	8,331,414	7,809,966
Total net rents, Dr.	16,404,810	15,288,539	8,620,050	8,199,630
Net railway operating income, (excluding BEFORE depreciation)	21,333,032	21,122,498	9,419,199	9,103,716
Depreciation	11,142,305	11,211,206	5,609,550	5,629,428
Net railway operating income	10,190,727	9,911,292	3,808,649	3,474,288
Total other income	3,354,240	3,513,113	1,497,724	1,829,653
Total miscellaneous deductions	476,803	529,393	135,048	219,112
Fixed charges	4,010,973	3,799,120	1,931,671	1,828,821
Contingent interest	2,540,928	2,517,834	1,267,452	1,219,570
Net income	6,516,263	6,578,058	1,972,202	2,036,438
Net income before depreciation	17,658,568	17,789,264	7,582,752	7,665,866

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	1961	1962
Operating revenues assignable to passenger and allied service	31,778,277	32,143,908
Operating sleeping cars (Transportation expense)	532,860	536,411
Ratio - Sleeping car expense to total operating revenue	0.26%	0.27%
Ratio - Sleeping car expense to passenger service revenue	1.68%	1.67%

Source: Reports of the carrier filed with the Interstate Commerce Commission.

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SELECTED INCOME ACCOUNT ITEMS

SOO LINE RAILROAD COMPANY

1961 - 1963

	Annual		6 Months to June 30	
	1961	1962	1962	1963
Total operating revenue	$74,992,428	$80,384,470	$35,146,745	$37,388,162
Operating expenses:				
Maintenance of way	8,834,744	9,349,620	4,240,949	4,753,139
Maintenance of equipment	9,453,605	9,473,569	4,662,395	4,815,875
Transportation expense	31,387,311	32,657,249	15,486,442	15,319,034
Other expenses	7,434,890	6,944,572	3,432,707	3,281,664
Total operating expenses, (excluding depreciation)	57,110,550	58,425,010	27,822,493	28,169,712
Total taxes	6,007,814	6,031,204	2,979,949	2,595,241
Total net rents, Dr.	3,542,901	5,623,782	1,986,148	1,917,374
Net railway operating income, (excluding depreciation) BEFORE	8,331,163	10,304,474	2,358,155	4,705,835
Depreciation	4,609,287	4,531,623	2,265,239	2,243,379
Net railway operating income	3,721,876	5,772,851	92,916	2,462,456
Total other income	535,164	733,409	367,540	495,024
Total miscellaneous deductions	297,745	163,391	86,606	90,865
Fixed charges	1,443,922	1,379,058	700,637	722,345
Contingent interest	1,851,722	1,863,748	600,431	919,091
Net income	663,651	3,100,063	-927,218	1,225,179
Net income before depreciation	5,272,938	7,631,686	1,338,021	3,468,558

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	1961	1962
Operating revenues assignable to passenger and allied service	3,628,357	3,488,006
Operating sleeping cars (Transportation expense)	168,996	183,654
Ratio - Sleeping car expense to total operating revenue	0.23%	0.23%
Ratio - Sleeping car expense to passenger service revenue	4.66%	5.27%

Source: Reports of the carrier filed with the Interstate Commerce Commission.

REPORT
TO
THE PRESIDENT
BY THE
EMERGENCY BOARD

APPOINTED BY EXECUTIVE ORDER 11115
DATED JULY 4, 1963, PURSUANT TO
SECTION 10 OF THE RAILWAY LABOR ACT,
AS AMENDED

To Investigate Disputes Between the Pullman Company,
the Chicago, Rock Island and Pacific Railroad Company,
the New York Central System, the Soo Line Railroad Company,
and Certain of Their Employes Represented by the Brotherhood
of Sleeping Car Porters
(National Mediation Board Cases Nos. A-6794, A-6795, A-6796, A-6797)

Washington, D. C.
November 2, 1963
Emergency Board No. 155

LETTER OF TRANSMITTAL

WASHINGTON, D. C., November 2, 1963.

THE PRESIDENT,
The White House.

MR. PRESIDENT: The Emergency Board established by you on July 4, 1963, by Executive Order 11115, pursuant to Section 10 of the Railway Labor Act, as amended, to investigate disputes between the Pullman Company, the Chicago, Rock Island and Pacific Railroad Company, the New York Central System, the Soo Line Railroad Company, and certain of their employes represented by the Brotherhood of Sleeping Car Porters, a labor organization, has the honor to submit herewith its report and recommendations based upon its investigation of the issues in dispute.

Respectfully submitted,

J. Keith Mann
J. Keith Mann, Member

Frank D. Reeves
Frank D. Reeves, Member

Jacob Seidenberg
Jacob Seidenberg, Chairman

EXECUTIVE ORDER 11115

CREATING AN EMERGENCY BOARD TO INVESTIGATE DISPUTES BETWEEN THE PULLMAN COMPANY, THE CHICAGO, ROCK ISLAND & PACIFIC RAILROAD COMPANY, THE NEW YORK CENTRAL SYSTEM, AND THE SOO LINE RAILROAD COMPANY AND CERTAIN OF THEIR EMPLOYEES

WHEREAS disputes exist between the Pullman Company, The Chicago, Rock Island & Pacific Railroad Company, the New York Central System and The Soo Line Railroad Company, and certain of their employees represented by the Brotherhood of Sleeping Car Porters, a labor organization; and

WHEREAS these disputes have not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

WHEREAS these disputes, in the judgment of the National Mediation Board, threaten substantially to interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service:

NOW, THEREFORE, by virtue of the authority vested in me by Section 10 of the Railway Labor Act, as amended (45 U. S. C. 160), I hereby create a board of three members, to be appointed by me, to investigate these disputes. No member of the board shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier.

The board shall report its findings to the President with respect to these disputes within thirty days from the date of this order.

As provided by section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the board has made its report to the President, no change, except by agreement, shall be made by The Pullman Company, the Chicago, Rock Island & Pacific Railroad Company, the New York Central System and The Soo Line Railroad Company, or by its employees, in the conditions out of which this dispute arose.

JOHN F. KENNEDY

THE WHITE HOUSE,
July 4, 1963.

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REPORT TO THE PRESIDENT
BY THE
EMERGENCY BOARD

Appointed by Executive Order Number 11115
dated July 4, 1963, pursuant to Section 10 of
the Railway Labor Act, as amended.

I. INTRODUCTION

On July 4, 1963, the President of the United States, pursuant to Section 10 of the Railway Labor Act, as amended, by Executive Order No. 11115 created this Emergency Board No. 155 to investigate and report on separate but related disputes between the Pullman Company, the Chicago, Rock Island & Pacific Railroad Company, the New York Central System, the Soo Line Railroad Company, and certain of their employes represented by the Brotherhood of Sleeping Car Porters, a labor organization. These disputes, in the judgment of the National Mediation Board, threatened substantially to interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service.

On July 29, 1963, the President appointed as members of the Board: Jacob Seidenberg of Falls Church, Virginia, chairman; J. Keith Mann of Stanford, California, member; and Frank D. Reeves of Washington, D. C., member.

Pursuant to notice and agreement, the Board convened and held 20 days of hearings — in Chicago, Illinois, from August 20 to September 6, 1963, and in Washington, D. C., from September 9 to September 20, 1963 — which resulted in a record of 3,109 pages of testimony and argument and 68 exhibits. Thereafter, the Board conferred with representatives of the parties to explore possibilities of settling the dispute by mutual agreement. At the conclusion of these mediation efforts the Board went into executive session to study the evidence and arguments and to prepare this report. Because of the seriousness of the dispute, the extensive number of witnesses and exhibits, and the complexity of the issues, the parties agreed to extensions of time to September 19, October 19, and ultimately to November 2, 1963, with the approval of the President.

The Board wishes to express its appreciation for the thorough and painstaking manner in which the parties prepared and presented their evidence and for the courteous and constructive spirit they and their witnesses maintained throughout the proceedings.

II. HISTORY OF THE DISPUTE

The disputes originated on September 1, 1961, when the Organization, pursuant to Section 6 of the Railway Labor Act, as amended, served identical notices on each of the Carriers of its desire to revise and supplement their existing agreements, effective November 1, 1961, as follows:

> 1. All rates of pay shall be increased by the addition to the rates existing on November 1, 1961 of twenty-five (25) cents per hour, this increase to be applied

to all types of rates so as to give effect to the requested increase of twenty-five (25) cents per hour.

2. Revise and supplement existing agreements so as to include therein rules requiring that:

   Prior to any reduction in force or any abolition of a position or positions resulting in reduction in the number of employes in any seniority district or other unit covered by a seniority roster, all employes who may be affected by such reduction in force or abolition of position will be given not less than six months advance notice thereof. However, this rule shall not operate to require more than sixteen hours such advance notice to each employe who may be affected under emergency conditions such as flood, snow storm, hurricane, earthquake, fire or strike, provided the carrier's operations are suspended in whole or in part and provided further that because of such emergency the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employes involved in the force reductions no longer exist or cannot be performed. Whenever forces are reduced or positions are abolished with less than six months advance notice pursuant to the preceding sentence all employes affected thereby shall be recalled to service as soon as the suspension of the carrier's operations has ceased or the work of the employes affected can again be performed, and any notice of force reduction or abolition of position pursuant to the preceding sentence shall state that employes affected will be so recalled to service. Any rule, agreement or understanding now in effect more favorable to the employe is preserved and undisturbed by this rule.

In these notices the Organization requested a conference to be held with reference thereto "at the earliest practicable date and in any event prior to the expiration of thirty days from the date of this notice . . . ," but continued

> In accordance with established procedure which has been followed for more than twenty years, and on the assumption that an agreement may not be reached in separate system conferences, our organization, in the interest of saving time of Management and the Organization, suggests that the above-mentioned conference be waived without prejudice to the merits of the position of Management or the Organization pending finalization of negotiations upon the aforementioned subject matter by the Employes' National Conference Committee, composed of the Chief Executives of the Cooperating Railway Labor Organizations and the Carriers' National Conference Committee; whereupon the Organization will communicate with Management for conference to discuss application of agreement reached to the employes on your road represented by the Brotherhood of Sleeping Car Porters.

The Pullman Company on September 11, 1961, and the other Carriers in due course, acknowledged the Organization's notice and reserved the right "to serve certain proposals for consideration and handling to a conclusion concurrently with your notice" at or before the date of the initial conference.

On March 8, 1962, the Organization served upon the Carriers a further Section 6 notice to change the existing agreements covering rates of pay, rules and working conditions of employes, as follows:

> Reduce the basic hours of work per month to 173, with maintenance of monthly rates, and with compensation at the rate of time and one-half for all hours worked or assigned in excess of 173 per month; all relevant clauses in the agreement to be modified to conform to this revision.
>
> Add a rule to provide that there will be no future lay-offs, force reductions, or abolition

> of positions due to mergers, consolidations or transfers of service involving the Pullman Company and any other carriers or company, or as a result of technological change, excepting such as may be brought about through normal attrition; and that any employee required to move to hold employment, or otherwise affected by any such change, will be granted in full the protection specified in the Washington Job Protection Agreement of 1936.

On March 16, 1962, the Pullman Company, and subsequently the other Carriers, acknowledged the Organization's March 8 notice and again reserved the right to serve certain proposals of their own.

The New York Central System, on September 21, 1961, the Chicago, Rock Island and Pacific Railroad Company, on September 25, 1961, and the Pullman Company, on March 20, 1962, served the Organization with notice of their desire to amend their existing applicable agreements to:

1. Establish a rate of $1.25 per hour applicable to all attendants, porters, maids and bus boys.

Negotiations with the Pullman Company and the three Railroads were initiated in April, 1962. The negotiations were unsuccessful and on July 1, 1962, the Organization issued an explanatory statement and a "Strike Ballot" to its members in service on the Carriers involved in this dispute. The members of the Organization voted to authorize the officers to call a strike over these issues at such time as it should be lawful to do so unless a satisfactory agreement were reached.

By letter dated September 4, 1962, the Organization invoked the services of the National Mediation Board to assist in settlement of the subject disputes ". . . involving Section 6 notices relating to reduction in the workmonth from 205 hours to 173 hours, job protection and stabilization, and wage increase of 10. 28 cents." This application was docketed by the National Mediation Board as Cases Nos. A-6794, A-6795, A-6796 and A-6797, and mediation proceedings were conducted without composing the differences between the parties. On March 22, 1963, in accordance with Section 5, First of the Railway Labor Act, the National Mediation Board requested and urged the parties to enter into an agreement to submit the controversy to arbitration as provided in Section 8 of the Act. On April 1, 1963, the Pullman Company advised the Board of its willingness "to submit this controversy to arbitration provided a satisfactory arbitration agreement can be reached"; however, on April 18, 1963, the Organization, in writing, declined arbitration and on May 27, 1963, the National Mediation Board closed its file in the case.

On June 24, 1963, the Organization issued a strike call for July 1, 1963; but on June 25 the National Mediation Board certified the dispute to the President and requested the parties to maintain the status quo, to which they agreed. As previously mentioned, on July 4, 1963, the President issued the Executive Order creating this Emergency Board.

III. FRAMEWORK OF THE DISPUTE

The parties to the dispute are engaged in furnishing sleeping car services to the traveling public. The Pullman Company supplies sleeping car services to the American railroads under conditions hereinafter described while the three Railroad parties operate their own sleeping cars.

The Brotherhood of Sleeping Car Porters, a standard railroad labor organization, is the collective bargaining agent of the employes rendering porter services on the sleeping cars of the involved companies. While the sleeping car porter function has been in existence for more than a half century, the Brotherhood was not founded until 1925. The testimony indicated that its total membership is approximately 9,000 organized in 80 local divisions and includes, in addition to sleeping car porters, parlor car and coach attendants, train porters and dining car employes. The first serious attempt to organize sleeping car porters into an affiliated labor union came during World War I when the railroads were under control of the federal government, but there were contests for the representation rights which were waged between employe-representation-plan groups and unions affiliated with the American Federation of Labor.

It was not until 1935 that the Brotherhood was certified by the National Mediation Board as the representative of the Pullman porters. The Brotherhood was granted an international charter by the American Federation of Labor in 1936 although the AFL had granted federal charters to porters as early as 1929. Its first collective bargaining agreement was signed with Pullman in 1937. In 1949 the Brotherhood was determined by the Secretary of Labor to be a national labor organization and therefore became eligible to participate in the selection of members of the National Railroad Adjustment Board. The President of the Brotherhood also became a member of the Railway Labor Executives Association.

The Brotherhood, in addition to the contracts which it has executed with the Carriers involved in this dispute, also has collective bargaining agreements with approximately 35 major railroads covering the several classes of employes it represents.

The relationship of the Pullman Company to the railroads is a factor in this dispute. The ownership of the Pullman Company was changed in 1947, when its former owner Pullman, Inc., as a result of a suit instituted by the Department of Justice, was found to be a monopoly in violation of the anti-trust laws by the federal courts and was ordered to divest itself of either the operation of sleeping car services or the manufacture of sleeping cars. Consequently the capital stock of the Pullman Company was purchased by 53 railroads and the services and facilities of the Pullman Company made available to the railroad industry under a Uniform Service Contract, the terms of which were approved by the Interstate Commerce Commission.

The Uniform Service Contract provides, among other things, that any profit derived from the Pullman Company sleeping car operations on a particular railroad is shared by the Pullman Company and the railroad on a prescribed basis — 25 per cent to the Pullman Company and 75 per cent to the carrier. On the other hand, if the revenue received is insufficient to cover the operating costs, the railroad must pay the Pullman Company an amount sufficient to make up the loss. The burden resulting from the Pullman Company's sleeping car operations falls on the particular railroad which has contracted for such services. Under the terms of the Uniform agreement, the Pullman Company received contract settlements of $18, 731, 907 in 1962 from the several using railroads to make up its operating losses. During the past five years the Pullman Company has received a total of $82, 235, 828 from its railroad customers to cover its operating deficits.

In addition to providing for the sharing of profits and losses, the Uniform Service Contract permits any using railroad to sever its contractual relationship with the Pullman Company upon the serving of notice. Insofar as the Board is informed, any railroad terminating or modifying the Contract with the Pullman Company may then either operate or discontinue such services in whole or in part.

In recent years certain railroads have taken over from the Pullman Company sleeping car operations on their own lines, apparently in the belief that they could conduct such operations more economically. For example, the New York Central, on July 1, 1958, and the Rock Island on

November 1, 1958, for all practical purposes severed their contractual ties with the Pullman Company. (Both the New York Central and the Rock Island Railroads still utilize the Pullman Company's services on some inter-line operations.) It may be noted that the New York Central remains the second largest owner (15 per cent) of the Pullman Company's capital stock.

The Pullman Company is the largest supplier of sleeping car services with 2,109 sleeping cars available for operation as of August 1, 1963. Only 382 cars are owned by Pullman and the rest are owned by the railroads and leased to Pullman.

As of March 1, 1963, the Pullman Company employed 2,008 sleeping car porters on 387 regular operations. A substantial part — approximately 32 per cent — of the Pullman Company's payroll costs are incurred with respect to the porter group. The New York Central employed 182 porters as of July 1963, and the Rock Island employs 40 porters, while the Soo Line employs five.

The porters employed by the Pullman Company have a long record of service. Ninety-seven and one-half per cent have more than 15 years service. Of this group, for example, 34.8 per cent have 20 to 24 years service, 29.6 per cent have 35 to 39 years service, and 0.93 per cent have 45 to 50 years service.

The New York Central and the Rock Island Railroads began operating their own sleeping car services in 1958. In 1960 these Railroads signed their first collective bargaining agreements with the Brotherhood covering sleeping car porters. Over 85 per cent of the persons hired by the New York Central and approximately all hired by the Rock Island for the available sleeping car porter jobs were former employes of the Pullman Company. They were hired as new employes and did not carry with them their Pullman Company seniority.

Evidence and arguments with reference to and by each of the Carrier parties were presented in this proceeding. In addition, Counsel for the Rock Island and Soo Line Railroads explicitly adopted the position of the Pullman Company on the issues. While the circumstances of the Pullman Company and its employes may be considered only relatively representative and typical of all on some of the issues, in the interest of economy of statement the Board's discussion and findings are undifferentiated among the several disputes except as noted. Moreover, the Board has inferred from the presentation that its function of assisting the parties' achievement of an amicable settlement will be duly served by common recommendations on the issues.

It is within the foregoing framework that the Board undertakes its consideration of the issues in this dispute.

IV. DISCUSSION

A. WAGE AND HOUR ADJUSTMENTS

1. Basic Month

The Organization proposes that the hours in the basic month be reduced from the present 205 to 173 with maintenance of take home pay. The Carriers oppose this change.

The current agreement between the Pullman Company and the Organization provides that 205 hours credited in a calendar month shall constitute a basic month's service. When a regular assignment is less than 205 hours no deductions are made from the established monthly wage, which varies according to the porter's length of service. Ninety-seven and one-half per cent of the Pullman porters have more than fifteen years service and constitute a substantial majority of the employes involved in the dispute. For these senior employes working a full regular assignment the monthly wage is $430.36 and the pro rata hourly rate is $2.0993, which are the monthly and hourly rate bases used herein for reference and computation, unless otherwise noted.

The Organization stresses that the monthly equivalent of a 40 hour week which it is seeking for the porters is the standard work period for 95 per cent of all railroad workers and also is the characteristic and typical standard for American industry. It claims the established practice in the railroad and outside industry is that when hours are reduced there is no reduction in take home pay. The Organization contends further that porters work long, continuous, and arduous hours. Under the present schedules they frequently work more hours in one week than the average factory or office worker does in two. These long hours are not only physically wearing but also interfere with if not prevent a normal home life and hinder participation in community and social activities. The Organization asserts that for a public utility the alleged cost of the proposed hours reduction is irrelevant.

The Carriers oppose the Organization's request both for its lack of merit and for its potentially disastrous effects. They state that the porters' compressed work period allows them leisure at least comparable to that of factory and office workers, and produced evidence that many senior men in a position to choose their own runs select long assignments despite the alleged hardships. The Carriers also argue that it is well recognized in the industry that on-train service employes traditionally have worked longer hours than other railroad employes. With one exception, prior public boards have denied requests from on-train service employes for shorter work periods approximating the 40 hour week.

The Carriers maintain that they are operating with large passenger deficits and are unable to absorb any abnormal labor costs and continue their sleeping car business. The Pullman Company particularly stresses that subjecting it to these increased costs will accelerate the trend of using railroads taking over sleeping car service which will destroy the Pullman

Company and the jobs it now furnishes. The Carriers assert that the Organization's hours reduction proposal would have a heavy direct cost impact from the necessity of putting on additional men and paying higher hourly rates to extra porters. Indirectly, costs would also rise abruptly due to similar demands by other on-train service employes and appeals by craft and office employes for the restoration of pre-existing wage differentials.

In considering the request for the shorter work month, the Board finds, in the light of historical developments, that the 40 hour week is an almost uniformly adopted standard both in and out of the railroad industry. It was adopted as a work period standard as early as the middle 1930's under the NIRA. Emergency Board No. 66, familiarly known as the Leiserson Board, recommended the extension of this principle to railroad non-operating employes in 1948. Since the recommendations of that Board were accepted the metes and bounds of the normal work week for 95 per cent of railroad workers have become 40 hours. The Leiserson Board said:

> It is deemed unnecessary and inappropriate at this late date to inquire into the theoretical advantages or disadvantages of the 40-hour week. It is now firmly a part of our national industrial policy.

This Board is not aware of any wage and hour developments in the past fifteen years which have eroded the essential validity of the Leiserson Board's statement.

The only employes in the railroad industry who do not now enjoy the monthly equivalent of the 40 hour week are the on-train service group — sleeping car conductors, sleeping car porters, and dining car service employes. Within this group there was an important development in December 1961 when Emergency Board No. 139, reviewing the precedents in detail, recommended that the sleeping car conductors' work month be reduced from 205 to 180 hours. However this recommendation has not yet been given effect due to pending litigation as to other issues.

In 1963 the Board finds no justification for denying to sleeping car porters the principle of the 40 hour week. The Carriers did not contend in this proceeding that there are any administrative or operational factors which preclude granting a shorter work month. Nor are we persuaded on the record before us that the mold in which the porters' work month is cast, whatever its relative benefits or burdens, is a sufficient reason for a special work month. What is compelling is that the porters are asking for what has now become a generally accepted minimum standard.

The evidence before the Board indicates that the direct costs to the Pullman Company resulting from the reduction to 173 hours with maintenance of take home pay, at the present level of assignments, would be $2,551,000. These come from putting on some 400 additional men and paying a higher hourly rate for extra porters. The similar direct costs for the New York Central would be $280,965. The Board also notes that in the period from 1946 to 1962 the Pullman Company has undergone a drastic reduction in its operations. Its revenue passengers decreased from 25,948,000 to 3,749,000; its gross revenues went from $132,593,000 to $50,356,000 despite various adjustments in fares and charges during this period; its average number of employes (other than porters) dropped from 24,604 to 3,925. Since 1952 the Company has consolidated many of its operations and, for example, has reduced its regional offices from 5 to 2. Although the number of cars operated from 1946 to 1962 has dropped from 5,531 to 1,114, the deficit per car has grown during the same period from $1,041 to $16,453. In 1962 the Company's operating deficit was $18,328,722. For the Rock Island in the same year the sleeping car deficit was $1,103,208 and for the Soo Line $72,089. In 1962 the New York Central's passenger service net operating deficit was over 15 million dollars. While the Board is aware that the Carriers' accounting procedures are much disputed, nevertheless it believes that these fiscal factors are entitled to weight in framing appropriate recommendations.

The allegation that indirect costs stem from disturbing existing rate differentials, thereby stimulating wage increase proposals from other groups of employes, is next considered. A reduction in hours with maintenance of take home pay will arithmetically raise the rates. For example, a reduction from 205 to 173 hours raises the present rate of $2.0993 to $2.4876. This increase in the basic rate, as such, does not increase the Carriers' costs except with respect to a higher rate for extra porters, to which the Board has already alluded. As to the issue of changed wage differentials between the porters and other nonoperating groups resulting from this higher rate, it is at best a speculative venture to attempt to determine the effect on nonoperating Organizations' wage movements which might result from any hours reduction gains achieved by porters. The Board does not find any evidence, at least up to the present time, that the nonoperating employes have been influenced in advancing their wage demands by wage levels of porters. Rather the record is clear that, at least up to 1961, the porters have followed and not set the wage adjustment pattern for nonoperating employes. It must also be noted that although patterns have a special significance in the railroad industry, wage relationships between various groups are not entirely fixed and rigid. It is quite probable that the dynamics of the situation will change them from time to time.

The Board has also examined the contention that the Brotherhood's proposal will directly motivate the dining car service employees to move for comparable adjustments. It is the view of the Board that if there is merit in the proposal for a shorter work month it would not be appropriate to deny it to porters because a related group of employes does not have such shorter hours. Moreover, the Board finds that Emergency Board No. 139's recommendation for the shorter work month for sleeping car conductors has weakened the rationale for refusing it to porters, who are also part of the on-train service group.

The maintenance of take home pay accompanying an hours reduction is a seriously controverted issue. The Board has carefully reviewed the evidence offered by the Carriers to show that the Organization's proposal is not consistent with the precedents in the railroad industry. The Carriers stressed that in 1949 approximately 39 per cent of the shop crafts and about 47 per cent of the firemen and oilers whose work week was reduced from seven to five days suffered a 14.3 per cent loss in take home pay. In addition, when certain monthly rated telegrapher and maintenance of way positions that comprehended more than 204 hours were reduced to 169-1/3 hours the incumbents of these positions suffered losses in take home pay ranging from 16.2 per cent to 2.2 per cent.

The Board believes that the Carriers' examples of loss of take home pay are distinguishable from the case before us. The sleeping car porters are not seeking to go in one stride from 56 to 40 hours a week as did the firemen and oilers in 1949. The porters received, like other nonoperating employes in 1949, a 35 hour reduction in their work month which approximated a reduction in the work week from 56 to 48 hours. Now 15 years later the porters are petitioning for a further reduction in hours with no loss in take home pay. In the judgment of the Board the extended period which has elapsed since the porters received their last hours reduction clearly indicates that the porters' efforts to achieve the monthly equivalent of the 40 hour week have been in two separate and distinct movements.

Most railroad workers followed the same pattern of separate and unrelated movements in proceeding from 56 to 40 hours a week. The first hours reduction in recent railroad industry history occurred immediately after World War I when the railroads were still under the control of the federal government. The second movement came, of course, in 1949. The record indicates that these separate hours reduction movements took place without employes generally suffering loss of take home pay. It appears to the Board that the sleeping car porters are now seeking the same consideration which was earlier accorded the majority of railroad workers.

In summarizing the several disputed aspects of the hours reduction proposal, the Board finds that the 40 hour week, or its monthly equivalent, is now the minimum work period standard for the majority of employes both in and out of the railroad industry; that the hours reduction movements generally have been effected without loss of take home pay; that no causal relationship has been demonstrated to date between the wage demands of the porters and those of skilled craftsmen and clerks; and that it would be inappropriate to deny a shorter work month to the porters, otherwise entitled to it, because another segment of the on-train service group does not possess it. The Board, on the other hand, finds that there is a substantial direct cost impact resulting from a shorter work month and that the condition of passenger service operations continues to be unfavorable.

In consideration of these findings the Board is of the opinion that a work month of 180 hours with maintenance of take home pay, to be reached in several steps over a prescribed period, is appropriate for sleeping car porters.

Both because of the financial implications of the hours reduction proposal and because Emergency Board No. 139's recommendation of 180 hours is the initial departure from the traditional pattern of longer hours for on-train service employes, the Board believes that 180 rather than the proposed 173 hours is indicated in this case. However derived, the 180 hour standard must be viewed in light of the close working relationship between porters and sleeping car conductors.

In suggesting a reduction of the basic work month to 180 hours in several steps, rather than the one step recommended in 1961 by Emergency Board No. 139, this Board observes that in that case there was an appreciably smaller number of men involved with a significantly lesser cost impact, that there was no contemporaneous wage proposal, and that the downward trend in sleeping car revenues has not been arrested.

2. Wages

The Organization's proposal is that all rates of pay be increased by 25¢ an hour effective November 1, 1961. The Carriers oppose the Organization's proposal and, with the exception of the Soo Line, make a counterproposal to establish a rate of $1.25 per hour.

As previously stated, the current basic rate of pay for 97.5 per cent of the Pullman porters is $430.36 per month or $2.0993 per hour. These rates have prevailed since July 1, 1960. The Organization's wage proposal is identical to the one which was served by the eleven cooperating nonoperating Organizations. As a result of the recommendations of Emergency Board No. 145, issued on May 3, 1962, the railroads and the nonoperating employes reached an agreement on a wage increase of 4.0¢ an hour retroactive to February 1, 1962, and 6.28¢ per hour retroactive to May 1, 1962, with a moratorium on wage adjustments to May 1, 1963. Since 1937, the porters have processed their general wage demands upon the Pullman Company pursuant to the pattern of the nonoperating Organizations' settlements and have received the identical cents per hour wage increases.

The Brotherhood insists that the porters now are entitled to a 25¢ an hour adjustment in order to correct a gross wage inequity to which they had been subjected prior to 1937. Before that date the porters never had negotiated nor been covered by a bona fide collective bargaining agreement and thus, it is urged, they did not receive the same wage adjustments between 1919 and 1937 as did organized nonoperating employes. Consequently the identical adjustments received since 1937 have not corrected the prior existing inequity. The Organization contends that between 1919 and 1929 the minimum monthly rate for organized sleeping car conductors increased by $45 as compared to the $17.50 increase in the porters' minimum, increasing the differential by $27.50. Similarly a $10 differential in favor of express messengers was increased to $19.70. It further maintains that if not denied the same wage progress that was made by organized railroad workers, the porters' present hourly rate of $2.0993 would be close to $2.83, the rate currently being received by express messengers.

The Carriers counter that no wage inequity exists now or existed prior to 1937. They state that between 1918 and 1929 (there being no wage increases in the railroad industry between 1929 and 1935) the porters' monthly wages were increased from $48.88 to $88.50, an increase of 81 per cent, which should be compared with the adjustments received by sleeping car conductors during the same period which were from $131.75 to $193.00 per month — an increase of 46.5 per cent. In 1937 the porters' rate was 45.9 per cent while at present it is 76.3 per cent of the conductors' rate. The Carriers also urge that since 1949 the porters have received larger monthly increases than the other nonoperating employes because their identical hourly increases were multiplied by 205 hours and the others by 173.

The Pullman Company points out that in 1958 when the New York Central and the Rock Island Railroads took over their own sleeping car services these railroads paid porters a lower rate and even today they pay a rate which is $11.00 a month less than the rate it pays. It stresses that the proposed increase of 25¢ an hour, without any reduction in hours, would produce a monthly rate of $481.61 instead of the present $430.36 and an hourly rate of $2.3493, 11.9 per cent higher than the present rate of $2.0993. Such an 11.9 per cent increase in the hourly rate would exceed by far the 4.9 per cent which represents for the porters the 10.28¢ per hour adjustment given to the nonoperating employes in 1962. The Pullman Company estimates that the proposed 25¢ an hour increase based on the 205 hour month annually would cost $1,413,800 and the New York Central estimates that its annual costs would be increased $138,216.

The Board finds that it is in disagreement with the Organization's contention concerning a gross inequity. It is unable to conclude that because porters have been receiving since 1937 the same cents per hour adjustments as other organized nonoperating employes, they were the subject of a gross wage inequity during the period when they were unorganized and did not receive the same wage increases. The fact that porters received different and lower wage increases than did, for example, sleeping car conductors and express messengers during the years in question, may connote a difference in the content of these job categories warranting variant wage treatment. Too many variables pertaining to wage adjustments between 1919 and 1937 would have to be taken into consideration to hold on this record that the porters were the subject of a wage inequity. The Board must also note that the Brotherhood has been engaging in collective bargaining with the Pullman Company since 1937 and it appears somewhat late to raise this issue after 24 years of negotiations.

As previously mentioned the record discloses that since 1937 the Organization has followed the pattern of wage increases granted to the nonoperating employes. If there were no issue of hours reduction in this dispute it would have been consistent with the pattern for the parties to have settled the wage issue for the same 10.28¢ per hour awarded nonoperating employes. However, since the Organization has sought and this Board is recommending an hours reduction, it does not seem reasonable to require the Carriers to assume the full burden of the 10.28¢ per hour wage increase contemporaneously with initiating action to effect a shorter work month. There is precedent for sharing the cost of a reduced work period. When the Leiserson Board recommended the 40 hour week it reduced the wage increase to 7¢ an hour for the nonoperating employes despite the fact that the operating employes had received 10¢ an hour and employes in outside industry were receiving 10¢ to 13¢ an hour as a result of the third round post World War II adjustments. If the nonoperating employes assumed part of the cost of the hours reduction in 1948 when the financial posture of the railroads was more favorable than it is at present, it does not seem unreasonable to suggest that the employes share part of the cost of the hours reduction at this far less favorable juncture. While it is true that the cost of the wage adjustment will be reduced because the proposed cents per hour increase will be initially calculated on a smaller number of hours than the present 205, nevertheless there will be an increase in the payroll costs. It is the judgment of the Board that an increase of 5.14¢ per hour represents a reasonable disposition of the wage adjustment issue.

When the wage and hour issues are considered together in light of the total discussion, the Board is led to recommend an hours reduction scheduled over a period of 30 months, with maintenance of take home pay, and the indicated wage increase. In an effort to balance the economic aspirations of the employes with the fiscal realities confronting the Carriers and to give recognition to the interest of the traveling public in continued efficient passenger rail facilities, the Board's detailed recommendations on the wage and hour adjustment proposals are:

1. A basic work month ultimately to comprehend 180 hours, with maintenance of take home pay, to be accomplished in accordance with the following schedule:
    a. An initial reduction in hours from 205 to 195, operative not later than one month after the effective date of the new agreement;
    b. A second reduction from 195 to 190 hours, effective one year from the date of the reduction to 195 hours;
    c. A third reduction from 190 to 185 hours, effective one year from the date of the reduction to 190 hours;
    d. A final reduction from 185 to 180 hours, effective six months from the date of the reduction to 185 hours; and
2. A wage increase of 5.14¢ per hour over the present rates computed on the basis of and effective concurrently with the reduction to a 195 hour month.

3. Overtime

In conjunction with its request for reduction in the hours of the basic month from 205 to 173 the Organization proposes that compensation for overtime be at the rate of time and one-half for all hours worked or assigned in excess of 173 per month, thereby eliminating the existing 35 hour margin of pro rata overtime.

Under the present agreement between the Brotherhood and the Pullman Company, a porter receives pay for all time credited. When his credited hours exceed 205 in a calendar month, the hours in excess of 205 and up to and including 240 are paid for on the straight time or pro rata hourly basis. Hours in excess of 240 are paid for at one and one-half times his hourly rate.

The 35-hour margin of pro rata overtime was negotiated with the Brotherhood effective September 1, 1949, when the basic month for porters was reduced from 240 to 205 hours. Prior to that date the porters had a 10 hour margin of pro rata overtime from 240 to 250 which had been in effect since October 1, 1937.

In summary, the Organization contends that the practice of maintaining a margin of pro rata overtime, referred to as "leeway," was discontinued many years ago for other classes of railroad employes and for employes in other industries facing similar problems; that the Carriers' inability to schedule precisely the assignments of all their employes to the number of hours in the basic work week or work month for which a guaranteed wage is paid, with the result that some employes may receive the guaranteed wage while working fewer hours than the basic period, does not justify denying premium overtime payment to those who work in excess of the basic period; and that the present rules for pro rating hours provide the Carriers with built-in leeway greater than the 35 hour margin provided in the existing overtime rules.

The Carriers insist that there are conditions peculiar to on-train passenger service employment which justify a margin of pro rata overtime. Notwithstanding the Carriers' efforts to schedule porter assignments within the basic month, the fluctuation between 30 and 31 day months, delayed train arrivals, and certain rules in the existing agreements, over which the Carriers and particularly the Pullman Company have no control, will necessarily result in overtime. Thus, the basic principle underlying punitive overtime is inapplicable and leeway provisions have been traditionally applied to all Pullman and railroad employes who are engaged in passenger service on the trains. In addition, the Pullman Company offered evidence that eliminating pro rata overtime, in connection with reducing the basic work month to 173 hours, would necessitate the services of 25 additional men and increase payment to extra men at an estimated annual cost of $267,395.

The Board recognizes that the ideal situation would be one in which it were possible for the Carrier to assign porters, both regular and extra, to hours which in each month equal the basic month. This is usually possible in industrial employment and in some carrier operations in which the conditions of work permit the work force to be relieved at a fixed time. However, the work time of on-train service employes is necessarily fixed in relation to train schedules, which are governed by railroad operating conditions and public convenience. These are often affected by Acts of God and other contingencies beyond the control of both railroad management and employes. For example, evidence adduced by the Pullman Company shows that in the month of March 1963, 20,364:40 hours of overtime was paid in regular porter operations, of which 6,183:50 hours were chargeable to late arrivals of trains, in the operation of which Pullman has no responsibility.

The evidence also shows that all regular assignments are scheduled on the basis of a 30 day month. In each 31 day month the average number of credited hours of every run is increased by one-thirtieth. Therefore, in seven months of the year a regular assignment with a schedule of 205 hours produces 211:50 hours of credited time. All regular assignments of 198:15 hours or more produce some credited overtime in the seven 31 day months of the year, due to the additional day in the month. Moreover, the existing agreement between the Brotherhood and the Pullman Company contains several rules which make it impossible to schedule some regular assignments at or close to the 205 hours of the present basic month and a comparable situation will obtain under a reduced basic month.

The ability of the Pullman Company to minimize overtime is restricted by the provision in the present agreement which requires that extra porters shall be assigned "first in, first out" on the basis of expiration of layover from their preceding trip. Thus, an extra porter, who near the end of the month draws a long assignment on which he will accumulate a large number of hours, must be given that assignment although he may already have 205 credited hours for the month and will accumulate substantial overtime in that month.

The foregoing conditions peculiar to on-train service employment have been recognized by previous public boards as a proper basis for distinguishing such employment from other railroad employment in applying the principle underlying penalty pay. Thus, the United States Railroad Labor Board in its decision No. 2052 dated December 4, 1923, established a rule for Pullman conductors providing 30 hours leeway. And the Leiserson Board, although recommending a 35 hour reduction in the basic month for dining car waiters, continued the existing 35 hour leeway, stating: "This is definitely a situation in which penalty pay will not serve to shorten the hours, unless service is to be curtailed." Consequently, since September 1, 1949, dining car cooks and waiters have been paid on the basis of a 35 hour margin of pro rata overtime, similar to porters. Pullman conductors have had a 10 hour margin of pro rata overtime since 1945, which was not at issue in the Emergency Board No. 139 proceedings resulting in a recommendation for reduction of the basic month from 205 to 180 hours. And the dining car stewards, whose present 205 hour basic month became effective October 1, 1950, have been subject to a 15 hour margin of pro rata overtime since December 18, 1947. There is no apparent relationship between the length of the basic work month and the margin of pro rata overtime.

In recognition of the impossibility of precise scheduling of porter assignments due to contingencies and conditions peculiar to on-train service employment, all beyond the Carriers' control, and the limitations imposed by provisions in the existing agreements, the Board finds that it would be inequitable and would not necessarily result in the elimination of or a reduction in overtime to require premium payment for all time worked or assigned in excess of the basic month.

The Board is not persuaded, however, that the existing 35 hour leeway is necessary or justified.

None of the Carriers has claimed that its regular assignments cannot be adapted to a reduced basic month. The Pullman Company introduced evidence to show that its regular assignments as of March 1, 1963, ranged in length from 142 hours to 225:50 hours per 30 day month and that the weighted average of the scheduled length of all regular assignments as of that date was 207:16 hours. In addition, a certain protection against the payment of excessive overtime by Pullman inheres in the proration rule. Under that rule, which is not at issue in this proceeding, the service hours per month are calculated by prorating the hours. This proration applies to trips which are started near the end of one month and results in the hours actually credited for that trip in the current month being limited to 6:50 hours per day (205 hours divided by 30 days) regardless of the number actually worked, with the balance of the trip hours being carried over and credited in the following month. The Board also notes the apparent long accommodation of the Carriers to 15 and 10 hour margins of leeway for dining car stewards and Pullman conductors, respectively, whose working conditions are similar to the porters.

These considerations convince the Board that the existing 35 hour margin of pro rata overtime should be reduced to 10 hours. The Board therefore recommends that the parties negotiate a modification of the present rule to provide for payment of overtime at pro rata hourly rates for the first 10 hours above the basic month and at a rate of time and one-half for hours in excess thereof; provided however, that the parties also negotiate a corollary revision of existing rules directed toward minimizing the amount of overtime which may be accrued pursuant to the present provisions for operation of the porters' extra board.

B. EMPLOYMENT STABILIZATION AND INCOME PROTECTION

The Brotherhood has filed two Section 6 notices directed at alleviating the job insecurity its members undeniably face. The first, filed in September, 1961, proposed a rule requiring not less than six months advance notice to employes affected by any reduction in force or abolition of positions, excepting emergency conditions. The second, served in March, 1962, proposed a rule that would stabilize employment by limiting to normal attrition[1] "future lay-offs, force reductions, or abolition of positions due to mergers, consolidations or transfers of service involving the Pullman Company and any other carriers or company, or as a result of technological change . . . " and granting to "any employe required to move to hold employment, or otherwise affected by any such change" the protections specified in the Washington Job Protection Agreement of 1936.

Little time need be spent in describing the decline in the volume of passenger service on the American railroads or the impact of competition from automobiles and from increasingly available and less expensive air transportation. Nor is there any question that sleeper accommodations have been particularly vulnerable to the inroads of economy air travel and the ubiquitious motel.

The record before the Board is replete with testimony and exhibits indicating the contraction in sleeping car service and the accompanying reduction in employment of sleeping car porters. The policy of Pullman

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[1] Departures from the work force resulting from death, retirement, resignation, or discharge for cause.

Company historically has been "one car, one porter," and the decline in the demand for Pullman Company services is partially reflected in the figures on employment of porters. From a pre-depression average of 10,000 porters employed and a war time high of over 14,000, the figures for porters now employed by Pullman Company have dropped to slightly over 2,000 in March, 1963.[2] Pullman exhibits indicate that between January 1, 1961, and August 31, 1963, a total of 111 lines have been discontinued and not reestablished, eliminating assignments for 456 porters. The 1958 take over of sleeping car operations by New York Central and Rock Island resulted in a substantial decrease in the number of porters employed by the Pullman Company, but due to the hiring of Pullman porters by these railroads, there was a limited net disemployment of porters. Employment of regularly assigned porters on the New York Central has dropped from 376 in July, 1958, to an apparent plateau of 182 since 1961.

The Organization has attributed part of the blame for the decline to the Carriers, but there is no controversy over the reality and seriousness of the loss of passenger traffic or its impact on employment.

Witnesses for the Brotherhood have spoken eloquently of the problems of sleeping car porters, men whose long years of service bespeak a commitment to the railroad industry and a general age level that makes retraining difficult and reemployment uncertain. The Organization has emphasized the fact that many porters lack transferable skills because of limited educational opportunities and because of the discouragement inherent in past and present discriminatory employment practices against even skilled Negroes. Certainly employment discrimination has existed and continues to exist, and employment alternatives are particularly restricted for older Negroes. The impasse faced by many of the Nation's older workers as they are threatened by the sweep of changed job patterns is more serious still for the senior sleeping car porter.

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[2] Employment figures actually fail to reflect a portion of the decline in business, since as previously noted the average occupancy of sleeping cars has fallen from about 12 per car in 1947 to 9.22 per car in 1962.

The job insecurity of porters is rooted in the downward trend of public use of sleeping car facilities and the resulting contraction in sleeping car schedules described above. In the case of railroads operating their own sleeping car service, the impact is immediate; contraction of schedules is reflected in the abolition of regular porters' positions and ultimately in the furloughing of the most junior members on the porters' extra board. As has been noted, the majority of sleeping car porters are employed by the Pullman Company, rather than directly by the railroads.

Under the Uniform Service Contract, the Board has been informed, a customer railroad may curtail or completely discontinue its use of

Pullman services. The Uniform Contract contains no requirement for advance notice of curtailment of services, although in practice using railroads have given the Pullman Company from 10 to 30 days notice of elimination of cars and runs and longer notice of substantial curtailments or take overs. (Under the Uniform Contract, Pullman must receive six months notice from a railroad of intent to discontinue completely its services.) As in the case of railroad-employed porters, elimination of cars or runs results in the furloughing of Pullman porters, and take overs, in the absence of absorption of the men by the railroad, would have an even greater impact on the employment opportunities of Pullman porters.

1. Six Months Advance Notice of Job Abolition

The six months advance notice proposal is the companion to the identical demand made in 1961 by the eleven Organizations representing the nonoperating railroad employes. In the present dispute, it has been opposed by all of the three Railroads on the ground that it is basically a six-months "job freeze" and rejected with particular vigor by the Pullman Company. Pullman argues that since its contract with the using carriers contains no requirement for advance notice from customer railroads of curtailment or partial take over, it realistically cannot be subjected to a general requirement to give advance notice to its employes.

Although the Organization presented some arguments supporting the need for long term notice of reductions in force, testimony on its behalf conceded that the genesis of the demand was more a technique for opening negotiations with regard to employment stabilization than an accurate reflection of the Organization's expectations.

There is no doubt that employes should be informed as early as possible of proposed reductions in force, but neither is there evidence that the Carriers have been dilatory in this respect. The record indicates that the Pullman Company has been prompt in posting the notices it receives from customer railroads, and the Board assumes that this record of diligence will be maintained for the protection of affected employes.

The notice demand by the nonoperating Organizations was considered by Emergency Board No. 145, which found that it was an inappropriate solution to the problems of job insecurity and recommended that in general five working days advance notice be given to regularly assigned employes prior to abolition of their positions. The nonoperating Organizations have entered into agreements incorporating this recommendation.

The contract arrangements under which the Pullman Company now operates make a mandatory provision for long term advance notice impracticable. However, it is the view of the Board that a rule requiring notice comparable to that covering the nonoperating employes would not place an undue burden on the Carriers and represents a reasonable minimum period of protection to the employes. The Board therefore recommends that the parties adopt a rule requiring five working days notice of abolition of positions to regularly assigned employes and negotiate any adaptations in the definition of "working days" necessitated by the scheduling arrangements peculiar to sleeping car service.

2. Employment Stabilization

There was disagreement between the representatives of the Organization and the Carriers with respect to the scope of the proposed rule as stated in the Section 6 notice. However, the hearings clearly developed the intent of the Organization to limit and cushion employe displacements from all causes, including take overs under the Uniform Service Contract and decline in the volume of business, which it attributes to and equates with "technological change." The Pullman Company and the participating Carriers construe "technological change" more narrowly and have argued that the Section 6 notice does not cover reductions in force resulting from decline in volume of business. They nevertheless argued the merits, or demerits, of the proposal as interpreted by the Organization; and it appears that the interests of both sides to this dispute will be better served if the Board addresses itself to the substance of this request.

The main thrust of the Organization's notice is to limit the rate of job abolition to the rate established by normal attrition and to guarantee to employes adversely affected by rearrangements contemplated by the proposed rule the protection contained in the Washington Job Protection Agreement. The proposal is an amalgam of employment stabilization and income protection provisions, the first aimed at maintaining positions to accommodate porters presently employed; the second concerned with ameliorating economic loss.

Although security has always been one of the principal goals of this and other Organizations, traditionally wages and hours and fringe benefits have provided the path to that goal. But now, money and hours themselves are not considered adequate by them; for obviously if the job disappears, the money disappears. Porters are finding that their old jobs cease to exist, and no new ones spring up in the same locale or at the same skill level. Thus they have served notice that the job itself must be made more secure; and this demand comes, not surprisingly, at the very time when the Carriers feel under increasing pressure to eliminate jobs.

Basically the employment security technique proposed by the Brotherhood is natural attrition — a program of relating the rate of job reduction to natural departures from the work force. In some circumstances the adoption of natural attrition as a measure for reductions in the work force may provide a proper balance between the incumbent employes' needs and expectations and the employers' plans and interests. It may be possible to devise a program which will both strengthen job security and in some important respects increase employer efficiency. Each situation must, however, be examined on its own to determine whether a natural attrition formula is feasible and will prove mutually beneficial.

The virtues and limitations of the natural attrition approach have been carefully considered by Emergency Board Nos. 147, 148, and 151 in connection with disputes involving the telegraphers and the clerks. Prerequisites to test the viability of a natural attrition formula in particular circumstances emerge from the thinking of these Boards. In essence, these are the existence of a reliably predictable rate of employe attrition that approximately matches the rate of job abolition required by management's efforts to maintain a tenable competitive position; employment circumstances that are sufficiently varied and flexible to permit the shifting of displaced employes; limitation of employment protection to permanent employes; and development of a formula for excluding from the attrition limitation reductions in force necessitated by declines in business beyond the control of the employer. An additional factor suggested by the Board in the Southern Pacific-Clerks dispute was that the financial condition of the carrier involved be relatively stable.

In the situation at hand, the proposed attrition formula would limit the abolition of positions to a rate that is not based upon the Carriers' actual or potential need for porters. The Organization's proposal is somewhat less restrictive than the stabilization demands of the sleeping car conductors, which were considered and rejected by Emergency Board No. 139. However, it is still subject to the basic objection voiced by that Board, that an effort to maintain a level of employment without regard to the availability of work does "not represent a constructive approach to the problem. It will not preserve work for conductors, but it is more likely to destroy the company and all conductor work along with it."

Here the future rate of job elimination, quite apart from the past ratio between employe attrition and job abolition, is highly unpredictable due to the contingency of take overs. The Pullman Company does not act; it is acted upon. For example, if the Pennsylvania Railroad consummates its partial take over of sleeping car service, as it has notified Pullman it intends to do, about 250 of the 2000 Pullman porter jobs will be immediately lost. Nor are there other apparent employment opportunities with Pullman for the absorption of the employes. There is not, nor has there been for a considerable period, any new hiring in the craft. Intra-company transfers, with or without retraining, have not been remotely suggested. A careful study of the needs of each party and of the facts of the relationship demonstrates that attrition is not a fitting solution, even if it be recognized that efficiency is not the only standard. The goal of job security must be kept in perspective.

The Board concludes that the limitation of job abolition by the rate of natural attrition is not economically practicable in the face of the conditions surrounding sleeping car service, and that current practice in the railroad industry gives no support to its adoption as a pattern form of protection.

3. Income Protection

Insofar as the Organization's notice is directed toward income protection, it is a fact that for over three decades the railway industry has led in the development of arrangements to cushion the impact on employes of the vast and essential changes that have taken place in the organization and technology of the railroads. The Washington Job Protection Agreement of 1936 provides income protection for employes adversely affected by rail coordinations on the theory, now generally accepted, that the benefits of reorganization should not be reaped by the carriers alone while the economic burdens are borne by displaced and distressed employes. The theory and the fact of income protection have since been extended to line abandonments and consolidations within a single carrier, and more recently to displacement caused by technological or organizational change.

Witnesses for the Organization expressed concern as to whether sleeping car porters are included within the scope of the protection afforded by the Washington Agreement. The Brotherhood of Sleeping Car Porters did not achieve recognition as a bargaining representative until 1935, and their first collective bargaining agreement with Pullman was not signed until 1937. The Pullman Company filed notice of its intention and became a party to the Washington Agreement in 1952. The Brotherhood of Sleeping Car Porters is not a signatory to the Agreement, and for historical reasons the Agreement contains no provision for the addition of unions as it does for carriers. In 1961, the Brotherhood of Sleeping Car Porters and three other Organizations requested inclusion as parties to the Agreement, but were notified that there is no authority to alter the Agreement by adding a union party.

As this issue was developed in the course of the hearing, it appears to the Board that sleeping car porters are protected by the Washington Agreement to the extent that they are adversely affected by a "coordination" to which their employer is a party. The Agreement provides that no "coordination [i. e., "joint action by two or more carriers whereby they unify, consolidate, merge, or pool their . . . facilities . . . operations or services"] involving classes of employes not represented by any of the organizations parties hereto shall be undertaken by the carriers parties hereto except in accord with the provisions of this agreement . . . ." Porters who are directly employed by a railroad are clearly covered when affected by a merger or consolidation. Similarly Pullman employes would be protected in the event that the Pullman Company were a party to a merger or consolidation.

The difficulty is not that the porters do not enjoy the protection of the Washington Agreement, but that its scope is only marginally adapted to their problems. The significant threats to the job security of sleeping car porters stem from unilateral action by a using railroad to take over Pullman operations on its lines, or from contraction of service due to decline in passenger demand, neither of which is encompassed within the protection offered by the Washington Agreement.

In December 1961, Emergency Board No. 139 disapproved the extension of "severance allowances" to sleeping car conductors displaced as a result of decline in passenger demand. The Board found at that time "no example in the industry of severance allowances to employees who lose their jobs due simply to declining railroad business [and saw] no reason for recommending that Pullman conductors be afforded severance pay benefits not generally available in the industry."

The Organization has urged this Board to consider anew the request for income protection as a result of decline in the demand for sleeping car service. The Organization points to agreements recently negotiated pursuant to the recommendations of Emergency Boards that have modified the accepted notion that economic protection of displaced employes is essentially a charge against the savings envisaged through consolidation or, more recently, technological or organizational change. Emergency Board No. 147 recommended that income protection for telegraphers employed by the Chicago and Northwestern Railway be extended to all regular employes displaced or adversely affected by permanent elimination of positions regardless of the reasons for such elimination. A similar recommendation was made by Emergency Board No. 148, considering a dispute between the Telegraphers and the New York Central. Emergency Board No. 151, dealing with a dispute between the Southern Pacific and the Brotherhood of Railway Clerks, recommended that income protection be extended to employes without regard to the reason for the displacement, but suggested that the level of benefits to all displaced employes be measured against the savings accruing from technological and organizational change. That Board concluded "In sum, the fate of the company must, to a considerable extent, be the fate of the employes."

Certainly, there can be no argument that the hardship suffered by a displaced employe is in any way extenuated by the reason for his displacement. But the Emergency Boards referred to above were dealing with Railroads engaged in large scale readjustments that yielded the benefits of modernization at the same time that they risked loss or decline in business from competing forms of transportation.

The Pullman Company has been particularly emphatic in its opposition to both the attrition formula and the proposal for income protection. The Company argues with considerable force that it experiences a net loss in business and income from both a curtailment in use and a take over of service by customer carriers, with no resulting savings or benefits that might fund the retention of employes or the payment of protective allowances. Such contractions in service are unaccompanied by compensating improvements or efficiency in operations. Although the testimony before the Board indicated some economies resulting from improved yard and servicing arrangements, the basic trend in the income of the Company and the productivity of its employes has been downward.

It is the opinion of the Board that the financial position of the Pullman Company and the economic state of sleeping car services operated by the other Carriers distinguish the present dispute from the framework in which Emergency Board Nos. 147, 148 and 151 made their recommendations. Although regretfully cognizant of the insecurity faced by sleeping car employes, the Board must conclude that at this time it cannot recommend the granting of the Organization's proposals for income protection.

It should be noted, however, that there are now pending in the railroad industry various protection proposals served by the nonoperating

Organizations which in the foreseeable future may establish a pattern responsive to the needs of the sleeping car porters. The porters have followed the pattern of the nonoperating unions in wage increases for a long period of time. Should new protective conditions be established for the nonoperating employes, it will be a more fitting season for joint consideration of the application of such conditions to the characteristics of the sleeping car business.

Although the Board cannot endorse the Organization's proposal for job stabilization or protective allowances, it is impressed by the fact that porters have no shield from the job insecurity posed by transfers of service under the Uniform Service Contract. In the past, Carriers who have taken over sleeping car operations have hired substantial numbers of former Pullman porters. However, they are not contractually obligated to do so, and there is no guarantee to the porters that this will be the pattern of the future.

The Pullman Company has argued that it should not and cannot bear the burden of funding loss of income caused by transfers of service over which it has no control. Although the Board has sustained this position, it feels that the matter cannot equitably be left with Pullman's disclaimer. However, any recommendation that the Board might effectively make would be directed only against the Pullman Company and the three Carriers that currently operate their own sleeping car service: the carriers that use the Pullman Company's services and whose policies have such an immediate impact on Pullman employes are not before the Board at this time. The Board cannot agree with the Brotherhood that the relationship of the Pullman Company and the using railroads is such that we may properly make recommendations concerning their employment policies to carriers not parties to this dispute. [3] Neither can it ignore the fact that the Organization has no present bargaining relationship covering the class or craft of sleeping car porters with carriers which do not now operate sleeping car services, and therefore has no forum in which to seek relief from the insecurity inherent in prospective take overs.

The principles of employe protection in this industry would support, subject to legal limitations, the establishment of an employe preference for Pullman porters displaced by a service take over. The railroad community, both carriers and employes, has an interest in the maintenance of maximum employe security consistent with continued operations, existing contractual obligations, and legislative guides.

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[3] Two Emergency Boards, Nos. 127 and 139, have considered this procedural impasse in connection with the problems of Pullman Company sleeping car conductors, who have suffered substantial unemployment as a result of take overs. Since the Report of Board No. 139, the Pullman Company and the Conductors have been unable to agree on a joint proposal to customer railroads for the protection of conductors, and there the matter rests uneasily at this time.

Only with the cooperation of all can this humane and practical result be achieved.

Although the Pullman Company has emphasized its inability to furnish income protection to its sleeping car porters disemployed through transfers in service, it can be asked to make every effort to protect such employes in an appropriate and realistic fashion. Accordingly, the Board recommends that the Pullman Company and the Brotherhood agree that promptly after the settlement of the present dispute they will together urge each railroad customer of Pullman potentially involved in a transfer of service, in hiring sleeping car porters for the service so taken over, to accept and to consider, in preference to other applicants, applications from these porters who are then on Pullman seniority rosters, provided however, that no railroad shall be urged to take any action which would violate any provisions of the Railway Labor Act or any agreement with the Brotherhood or any other labor organization.

C. RETROACTIVITY

It is apparent upon the record in this case that had there been no issue between the parties other than the proposed 25¢ per hour wage adjustment, the pattern since 1937 would have indicated a settlement upon the same basis as the identical wage adjustment proposal was settled between these Carriers and their other nonoperating employes.

Presumably a wage increase of 10.28¢ per hour would have been agreed upon with 4.0¢ effective as of February 1, 1962, and an additional 6.28¢ effective as of May 1, 1962.

However, the processing of the instant dispute, in which there is no evidence that either party has been dilatory, has deferred a separate adjustment of the wage issue. As recommended by this Board, that issue would now be adjusted on the basis of a 5.14¢ hourly increase in consideration of the concurrent adjustment of the hours reduction issue. The date from which any lump sum retroactive payment should be calculated is the question now to be resolved.

The porters have worked and the Carriers have had the advantage of their labors during the period that other nonoperating employes have had the benefit of the 10.28¢ increase. Equity requires that the porters receive retroactivity to the same time the nonoperating employes obtained their wage adjustment. The Board therefore recommends a retroactive lump sum wage payment computed on the basis of the 205 hour month as follows: 2.0¢ per hour from February 1, 1962, and an additional 3.14¢ per hour from May 1, 1962, to the date of the reduction to a 195 hour basic month.

V. RECOMMENDATIONS

In summation, Emergency Board No. 155 recommends that the dispute committed to its investigation should be resolved as set forth below:

1. A basic work month ultimately to comprehend 180 hours, with maintenance of take home pay, to be accomplished in accordance with the following schedule:
   a. An initial reduction in hours from 205 to 195, operative not later than one month after the effective date of the new agreement;
   b. A second reduction from 195 to 190 hours, effective one year from the date of the reduction to 195 hours;
   c. A third reduction from 190 to 185 hours, effective one year from the date of the reduction to 190 hours;
   d. A final reduction from 185 to 180 hours, effective six months from the date of the reduction to 185 hours; and
2. A wage increase of 5.14¢ per hour over the present rates computed on the basis of and effective concurrently with the reduction to a 195 hour month; and
3. Negotiation of a rule reducing the existing 35 hour margin of pro rata overtime to 10 hours and providing for the payment of overtime at pro rata hourly rates for the first 10

hours above the basic month and for time in excess of this margin at one and one-half times the hourly rate; provided however, that the parties also negotiate a corollary revision of existing rules directed toward minimizing the amount of overtime which may be accrued pursuant to the present provisions for operation of the porters' extra board; and

4. Adoption of a rule requiring five working days notice of abolition of positions to regularly assigned employes and negotiation of any adaptations in the definition of "working days" necessitated by the scheduling arrangements peculiar to sleeping car service; and

5. Agreement by the Pullman Company and the Brotherhood that promptly after the settlement of the present dispute they will together urge each railroad customer of Pullman potentially involved in a transfer of service, in hiring sleeping car porters for the service so taken over, to accept and to consider, in preference to other applicants, applications from these porters who are then on Pullman seniority rosters; provided however, that no railroad shall be urged to take any action which would violate any provisions of the Railway Labor Act or any agreement with the Brotherhood or any other labor organization; and

6. Payment of a retroactive lump sum computed on the basis of the 205 hour month as follows: 2.0¢ per hour from February 1, 1962, and an additional 3.14¢ per hour from May 1, 1962, to the date of the reduction to a 195 hour basic month; and

7. Withdrawal of the Organization's notices of September 1, 1961, and March 8, 1962, and the several Carriers' notices of September 21 and 25, 1961, and March 20, 1962, in favor of a settlement on the basis of the foregoing recommendations, the parties making such other changes in their existing agreements as may be necessary to conform thereto.

* * * *

Lastly, this Board requests the parties to arrange for prompt meetings for the purpose of implementing these recommendations and completing agreements on all open issues, with such assistance by the National Mediation Board as may be appropriate under the Railway Labor Act and the National Mediation Board's usual practices.

Respectfully submitted,

J. Keith Mann
J. Keith Mann, Member.

Frank D. Reeves
Frank D. Reeves, Member.

Jacob Seidenberg
Jacob Seidenberg, Chairman.

WASHINGTON, D. C., November 2, 1963.

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On behalf of the Chicago, Rock Island & Pacific Railroad Co.:

Professional:

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Officers:

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On behalf of the Soo Line Railroad Co.:

Professional:

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by Marvin F. Metge, counsel.

ASA PHILIP RANDOLPH

SUBJECT FILE

BROTHERHOOD OF SLEEPING
CAR PORTERS

Legal Papers
Railway Labor Disputes
And Settlements

1964

(4)

INFORMATION

For Use Of

BROTHERHOOD OF SLEEPING CAR PORTERS REPRESENTATIVES

In

1964 NEGOTIATIONS

INFORMATION

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BROTHERHOOD OF SLEEPING CAR PORTERS REPRESENTATIVES

In

1964 NEGOTIATIONS

Prepared By

LABOR BUREAU OF MIDDLE WEST

Chicago, Illinois
Washington, D. C.

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THE BARGAINING PROGRAM OF THE BROTHERHOOD IN 1964

The Brotherhood has served written notice on all carriers on which it has representation rights of its proposals to improve the present agreements. This is the notice required under Section 6 of the Railway Labor Act. An exact copy of the uniform notice that was sent in behalf of sleeping car porters, train porters, and all other Brotherhood members is on the following pages.

In general, the bargaining program of the Brotherhood follows the current program of the non-operating employees of the railroad industry except where the particular circumstances of the Brotherhood membership required modification. In brief, the program has four main parts:

1. VACATION IMPROVEMENTS -- especially increasing the maximum length of vacation to 4 weeks after ten years of service.
2. NINE PAID HOLIDAYS.
3. CONTINUATION OF TRAVELERS INSURANCE COVERAGE, RAISE LIFE INSURANCE TO $6,000 FOR ACTIVE EMPLOYEES AND ADD $2,000 INSURANCE FOR RETIREES.
4. STABILIZATION OF EMPLOYMENT.

Brotherhood notices request conferences with carriers' representatives to discuss the proposed improvements in agreements within 30 days of the date of the notice as is provided in Section 6 of the Railway Labor Act.

NOTICE SENT TO PULLMAN COMPANY AND ALL OTHER CARRIERS WITH WHOM BSCP HAS AGREEMENTS COVERING ANY CLASSES REPRESENTED BY BSCP

Dear Sir:

Please consider this letter as the usual and customary thirty day notice under the Railway Labor Act, as amended, and as the seven months' notice provided for in our current vacation agreement, of our desire to revise and supplement our existing agreements covering all classes of employees in your service represented by the undersigned organization.

The specific respects in which we request that our existing agreements be revised and supplemented are set forth in Appendix A, attached hereto.

We request that conferences on this notice be held within thirty days of the date hereof, and that you advise us within ten days as to the time and place you are prepared to meet.

This request is in addition to any other requests we have submitted to you and which are now pending.

Very truly yours,

/s/ A. Philip Randolph
President

APPENDIX A

ARTICLE I - VACATIONS

Effective January 1, 1965, amend the present vacation agreement in the following respects:

1. An annual vacation of six (6) consecutive work days with pay, or pay in lieu thereof, will be granted to each employee covered by this agreement who has been in an employment relation for a period of not less than six months during the preceding calendar year, and has rendered some compensated service during that period. Existence of an employment relation of six months or more, with the rendering of some compensated service during that period, in the first calendar year of employment, shall be considered as a full year of employment relation of an employee for qualification under paragraphs 2, 3, and 4 of this proposal.

2. An annual vacation of twelve (12) consecutive work days with pay, or pay in lieu thereof, will be granted to each employee covered by this agreement who has been in an employment relation for a period of two or more years, and has rendered some compensated service during the preceding calendar year.

3. An annual vacation of eighteen (18) consecutive work days with pay, or pay in lieu thereof, will be granted

to each employee covered by this agreement who has been in an employment relation for a period of five or more years, and has rendered some compensated service during the preceding calendar year.

4. An annual vacation of twenty-four (24) consecutive work days with pay, or pay in lieu thereof, will be granted to each employee covered by this agreement who has been in an employment relation for a period of ten or more years, and has rendered some compensated service during the preceding calendar year.

5. In instances where employees have qualified for a vacation in any calendar year, and subsequently become members of the armed forces of the United States, the time spent by such employees in the armed forces will be credited as qualifying service in determining the length of vacations for which they may qualify upon their return to the service of the company.

6. When any of the recognized holidays, as defined in Article II of this Notice, occur during an employee's vacation period, the following shall apply:

(a) If the holiday falls on a work day of the employee's assignment in the case of an employee having an assignment, or on a work day of the position on which the employee last worked before the holiday in the case of an employee not having an assignment, then:

(1) If such assignment or position is not assigned to work on the holiday, the holiday shall not be considered as a vacation day of the period for which the employee is entitled to vacation, such vacation period shall be extended accordingly, and the employee shall be entitled to his holiday pay for such day.

(2) If such assignment or position is assigned to work on the holiday, the holiday shall be considered as a vacation day of the period for which the employee is entitled to vacation and the employee shall be entitled to a straight time day's pay plus pay at the rate of time and one-half for time the position is assigned to work on such holiday.

(b) If the holiday falls on a rest day of the employee's assignment in the case of an employee having an assignment, or on a rest day of the position on which the employee last worked before the holiday in the case of an employee not having an assignment, the holiday shall not be considered as a vacation day of the period for which the employee is entitled to vacation and the employee shall be entitled to his holiday pay for such day.

7. Amend the duration clause of the present vacation agreement so as to provide:

> "This Agreement shall be effective as of January 1, 1965, and shall be incorporated in existing agreements

as a supplement thereto, and shall be in full force and effect thereafter, subject to change upon written notice by the carrier or organization party hereto, of desire to change this Agreement, in accordance with the provisions of the Railway Labor Act, Amended."

ARTICLE II - HOLIDAYS

Add the following provision to the agreement:

1. The following enumerated holidays, or the days on which said holidays are observed, shall be considered paid holidays for the purpose of this agreement:

New Year's Day
Washington's Birthday
Good Friday
Decoration Day
Fourth of July
Labor Day
Veterans Day
Thanksgiving Day
Christmas

2. Any employee who is required to work on any of the foregoing holidays shall be paid at the rate of time and one-half the regular hourly rate for all hours worked, in addition to his regular pay for the day's work.

3. Any employee who is not required to work on any of the foregoing holidays shall be paid a day's pay, over and above his earnings from any regular or extra assignments, in accordance with the following:

(a) If he was not scheduled to work on that day he shall receive an additional day's pay.

(b) If he was scheduled to work on that day but, because of the holiday, he is not required to work, he shall be paid for that day as if it had been worked.

4. An employee shall qualify for the holiday pay provided in paragraph 3, above, if compensation is credited to him at any time during the sixty calendar days preceding the holiday, unless the employee was assigned to work on the day immediately preceding or following the holiday and he fails to report for work on such day without good cause. Good cause shall include sickness, injury, disability, vacation, leave of absence, and any other reasonable cause not including absence in anticipation of, or in prolongation of, the holiday.

ARTICLE III - HOSPITAL, SURGICAL AND MEDICAL BENEFITS AND GROUP LIFE INSURANCE

1. Hospital, surgical, and medical benefits now provided in The Travelers Insurance Company Group Policy Contract No. GA-23000 shall be continued until February 28, 1967.

2. Group Life Insurance provisions of The Travelers Insurance Company Group Policy Contract No. GA-23000 shall be

amended to provide group life insurance in the amount of $6,000, for active employees, and to provide group life insurance in the amount of $2,000 for retired employees, retiring on or after June 1, 1964.

3. The carrier will make such payments per qualifying employee per month to The Travelers Insurance Company as are necessary to cover the costs of continuing the hospital, surgical, and medical benefits as provided in paragraph 1 of this Article, and to cover the costs of the group life insurance as amended, without cost to active or retired employees.

4. The maximum hospital association dues required to be paid by employers on behalf of each employee on railroads having hospital associations shall be increased by the amount of increase in the premium paid to The Travelers Insurance Company on behalf of each employee for his own hospital, surgical and medical benefits, as provided in Group Policy Contract GA-23000.

ARTICLE IV - STABILIZATION OF EMPLOYMENT

1. The number of employees in each of the occupational classifications as of May 31, 1964, covered by the agreement between the carrier and the organization shall not be reduced

for any reason excepting through normal attrition, and such reduction shall not exceed 2% per year.

2. The carrier shall give not less than ninety days' notice to the organization of any change in equipment, methods, location of work or any other change that will affect an employee and said notice shall include detailed information as to changes in assignments and positions to be affected.

3. None of the work of the carrier now being performed, or susceptible of being performed, by employees coming within the scope of the agreement between the carrier and the organization, will be contracted out or otherwise transferred to other establishments or employers, and no existing arrangement under which such work is now being performed by other establishments or employers shall be continued, excepting upon agreement between the carrier and the duly authorized representative of the organization.

4. Any employee adversely affected by abolition of any position or by any change in technology, organization, volume or consist of traffic, or in location of work or employment, including contracting out or other transfer of work to other establishments or employers (as agreed upon pursuant to paragraph 3) shall be made whole for any and all adverse effects, financial or otherwise, to himself or his family.

5. Any employee who, as a result of any of the types of changes referred to in paragraph 4, would be required to transfer to another position or location, and who may elect in lieu of such transfer to resign or retire, shall be considered to be made whole either by payment of a severance allowance in the amount provided for in Section 9 of the Agreement, May, 1936, Washington, D. C., or in the event of early retirement under the Railroad Retirement Act, by payment of a supplementary retirement allowance sufficient to compensate for immediate reduction of income and subsequent reduction in retirement annuity under the Railroad Retirement Act, due to such early retirement.

6. Resignation or early retirement, brought about by the circumstances set forth in paragraph 5 above, shall not be considered as normal attrition for the purpose of this agreement.

THE BARGAINING SITUATION IN THE RAILWAY INDUSTRY AS IT AFFECTS THE BROTHERHOOD PROGRAM

All non-operating unions now have served notices on the railroads for improvements with respect to the same matters covered by the Brotherhood's proposals, including improvements in VACATIONS, HOLIDAYS, INSURANCE EXTENSION AND IMPROVEMENT, AND STABILIZATION.* Negotiations have been pending on these notices for several months and the matter is now in mediation.

All of the non-operating employee organizations also have wage requests pending. All wage demands are now in mediation except for that of the Signalmen, which have already been before an emergency board.

The operating employee organizations have just completed negotiation of an insurance plan, similar to that of the non-operating employees.

The bargaining proposals of the non-operating organizations are designed for all of the hundreds of thousands of employees that they represent. These include employees in all kinds of occupations and with different bases of pay -- mostly either hourly rated or monthly salaried, but also quite a variety of additional work and pay arrangements. The proposals will apply to different groups in different ways and perhaps to some groups not at all. It is appropriate that this Brotherhood should propose the same kinds of improvements since it has generally conformed to the non-operating bargaining patterns of the past.

---

* Except that the shop employees bargaining through the Railway Employes' Department have a separate stabilization program which is already before a Presidential Emergency Board.

Special applications of some of the proposals to the special circumstances of Brotherhood members may have to be worked out in bargaining -- but the same will be true of many classes of non-operating employees.

A condition of the agreement made by the Brotherhood in 1963 for the reduction of hours provided for a moratorium on wage increases until July 1, 1965. For that reason the Brotherhood is not filing wage increase proposals such as those served by the non-operating organizations at this time. Nothing in these proposals that we are filing can be characterized as a wage demand.

A major element in our hours reduction case was the fact of past discrimination. Facts of unequal treatment are present in regard to vacations and holidays also. If they do not already understand it, the company representatives will have to be told again that the time for second class citizenship in the railroad industry is past. Of all the employee groups in the non-operating bargaining pattern -- almost a half a million -- only the sleeping car porters and the dining car employees are denied holiday pay. And all of these other groups -- even the dining car employees -- get a full week off with a full week's pay for each week of vacation instead of the cut-rate 6/7ths of a week vacation in sleeping car service.

Further discussion and factual support of each of the proposals in turn are outlined in the pages that follow.

ARTICLE I, VACATIONS

THE PRESENT SITUATION

The number of weeks of vacation and the years of service required to qualify are the same in non-operating employee vacation rules and in the vacation rules of the Brotherhood. But in what the porter gets, there is a big difference. The non-operating employee who qualifies for a week's vacation gets a week off work and he gets a week's pay for that week off. If he has 15 years' service, he gets 3 weeks (21 days) off and he gets his full pay for each week. Sleeping car porters, on the other hand, may only get 6/7ths of a week's pay for each week of vacation. This means 14% less vacation pay for sleeping car porters. In dollars and cents this inequity amounts to some $44 of vacation pay for practically every porter, since nearly all have 15 years' service and qualify for 3 weeks of vacation. The figures on this are as follows:

Monthly Rate = $440.38
Daily Rate ($440.38 ÷ 30) = $14.68 (which is pro rata or spreading the monthly rate over all the days of the month -- not just over work days of the month.)

For each week of vacation, sleeping car porters get 6 pro rata days instead of 7.

Vacation Pay Deficiency for each week = $14.68

For porters with 15 years' service
(3 x $14.68) = $44.04

Non-operating railroad employees are paid for 8 hours for each day of their basic work week for each week of vacation. For instance, dining car employees who are still on a 48-hour week are paid 6 eight-hour days or 48 hours for each vacation week.

COMPARISON OF VACATION PAY HOURS:

48-Hour Week and 205-Hour Month:

BSCP .... 6 x 6:50 = 41 hours

Non-operating employees ... 6 x 8 = 48 hours

48-Hour Week and 174-Hour Month:

BSCP .... 6 x 5:48 = 34:48 hours

Non-operating employees ... 5 x 8 = 40 hours
(and other workers)

VACATION DAYS OFF WORK

For non-operating employees and for all other workers, when they get a week's vacation that means 7 days off work in addition to scheduled rest days. Three weeks means 21 days off. Besides the vacation time off for vacation trips, rest and recreation, longer vacations in American industry are a way of reducing hours of work and reducing unemployment. In sleeping car service, there is no need to scimp on vacation time off with over 5,000 porters furloughed from the Pullman Company alone last year. And yet the maximum vacation days for sleeping car porters is 18 days. Then with tailoring to fit the Company's schedules instead of to provide full vacations, men in some assignments get less than 10 vacation days for a "3-week vacation." Other workers get 21 days (plus scheduled rest days at the end of the last week worked) for a 3-week vacation. Even a 2-week vacation gives a 14-day vacation.

VACATION IMPROVEMENT PROPOSALS

The purpose of the vacation improvement proposals are to:

1. Liberalize vacation qualifying requirements;
2. Provide longer vacations.

The Brotherhood proposals follow the non-operating employees' proposals in eliminating the minimum number of days or hours of work in prior years to qualify for vacations. At present, employees must not only have 1, 3 and 15 years' service to qualify for the 1, 2 and 3-week vacations, but must also have worked a certain number of days or hours in the preceding calendar year and in each of the 1, 3, or 15 years of service. (The work requirements amount to a little more than 50% of the year in earlier periods and somewhat less for more recent periods, and still less, 38%, for employees with 15 years' service.)

As proposed by the Brotherhood (and the non-operating employees' organizations), an employee must have "rendered some compensated service" during the preceding calendar year and have had an employment relation for the required period of service. A man would have the "employment relation" as long as he was working regular or extra, or furloughed or on leave; in other words, as long as he had not quit, resigned, retired or been discharged by the carrier.

The qualifying time periods of this employment relationship-length of service are proposed to be:

6 months for	1 week vacation	(now 1 year)
2 years for	2 weeks' vacation	(now 10 years)
5 years for	3 weeks' vacation	(now 15 years)
10 years for	4 weeks' vacation	(no 4th week now)

There has been no change in the year of service required for a week's vacation since the first non-operating employees' vacation agreement in 1941, nor in the maximum 3 week vacation, nor the 15 years of service required to qualify for it since this was negotiated in 1954. Meanwhile, there has been a great deal of progress in reducing the years of service necessary to qualify for vacations and in the maximum amount of vacation provided workers in other industries. Workers in the steel industry now get 3 weeks after 10 years, 4 weeks after 25 years, and senior employees get a 13 week vacation every 5 years. Many and varied improvements have been negotiated by unions in other industries and such changes are still taking place each year.

The following tables from the United States Department of Labor give some indication of the progress that has been made in other industries. Railroad workers should be treated at least as well as workers in other basic industries, other utilities and in other transportation industries.

MAXIMUM LENGTH OF VACATIONS IN GRADUATED PLANS

MAJOR COLLECTIVE BARGAINING AGREEMENTS

1952 - 1961

Length of Vacation	Per Cent of Workers All Industries	 All Manufacturing	 Non-manufacturing
Two weeks or less:			
1952	30.1%	29.1%	35.3%
1957	12.3	11.5	14.5
1961	8.2	8.4	7.8
Two and one-half weeks:			
1952	-	-	-
1957	1.0	1.2	.2
1961	.7	.9	.1
Three weeks:			
1952	65.8	67.4	56.9
1957	57.8	59.0	54.7
1961	37.1	43.5	23.5
Three and one-half weeks:			
1952	-	-	-
1957	10.6	14.5	.7
1961	12.1	17.4	1.0
1961 with Steel Industry change*	4.0	5.5	1.0
Four weeks or more:			
1952	4.1	3.5	7.8
1957	18.3	13.7	29.9
1961	41.9	29.8	67.6
1961 with Steel Industry change	50.0	41.7	67.6

* The steel vacation rule was changed from a maximum of 3½ weeks to a maximum of 4 weeks effective January 1, 1963.

Source of Basic Data: United States Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, August, 1952, "Paid Vacation Provisions in Collective Agreements, 1952"; Bulletin No. 1233, Paid Vacation Provisions in Major Union Contracts, 1957, and Bulletin No. 1342, Paid Leave Provisions in Major Contracts, 1961.

MAXIMUM LENGTH OF VACATION IN GRADUATED PLANS

MAJOR COLLECTIVE BARGAINING AGREEMENTS

PUBLIC UTILITIES

1952 - 1961

	Per Cent of Workers			
Length of Vacation	Total	Transportation*	Communications	Electric and Gas
Two weeks or less 1/				
1952	14.4%	45.6%	-	1.1%
1957	2.7	6.7	-	2.4
1961	.6	1.3	-	-
Three weeks 2/				
1952	67.7	49.0	89.0%	90.1
1957	59.9	24.5	92.4	36.7
1961	9.5	18.6	.9	9.1
Four weeks or more				
1952	8.9	5.4	11.0	8.8
1957	37.4	68.8	7.6	61.0
1961	89.9	80.1	99.1	90.9

* Excludes railroads and airline industries.

1/ Includes less than 1 per cent of 2½ week provisions.

2/ Includes less than 1 per cent of 3½ week provisions.

Source of Basic Data: United States Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, August, 1952, "Paid Vacation Provisions in Collective Agreements, 1952"; Bulletin No. 1233, Paid Vacation Provisions in Major Union Contracts, 1957, and Bulletin No. 1342, Paid Leave Provisions in Major Contracts, 1961.

THE EFFECT OF THE VACATION IMPROVEMENT PROPOSALS ON THE MEMBERS OF THE BROTHERHOOD

The proposals to reduce the number of years of service for a one or a two-week vacation would have little immediate effect on Brotherhood members or on the carriers employing them since practically all members have had more than 3 years' service. Reduction in the service requirement from 15 to 5 years for the 3-week vacation would give a 3-week vacation to those sleeping car porters who lost out when the New York Central and the Rock Island took over sleeping car service in 1958. These men would now have the 5 years to qualify for a 3-week vacation in the future. Most other members would qualify for the fourth week of vacation since a very high percentage have more than 15 years' service.

In the next several years, as hours are reduced and older working members retire and die, many porters who have had long periods of furlough and very irregular and scant work opportunities can expect to be called back into service. Many of these men may be deprived of vacation rights unless the "employment relation" standard is substituted for the 984 hours or 144 days of work that now may be required. The number of men affected by these qualifying vacation rules may be fairly large within several years from now.

The Brotherhood proposal that each week of vacation consist of six consecutive work days can have special significance for porters who have been victimized by the prorating system in the past and have gotten only 6/7th as much vacation per week as other railroad workers. If porters are paid for six consecutive work days -- for the hours worked on those work days instead of prorating the time out over the month as in the past -- the deficiency in vacation would be eliminated and porters would get trip pay for the days of vacation.

The language used in the proposal is the same as that in the non-operating employees' proposal -- "consecutive work days." In fact, it is the same as in the present non-operating employees' vacation agreements. Its use in Brotherhood agreements would serve to remove an inequity of long standing.

ARTICLE II, HOLIDAYS

The Winning of Paid Holidays in Other Industries

The granting of paid holidays has become almost universal in American industry. The table below shows the increase in this practice between 1936 and 1956 with more than 96% of the companies in this study granting paid holidays in the latter year.

TRENDS IN HOLIDAY PAYMENTS TO HOURLY WORKERS
1936 - 1956

Year	Per Cent of Companies Granting Paid Holidays
1936	9.0%
1940	9.6
1946	41.7
1947	51.6
1948	76.6
1952	91.0
1956	96.4

Source: National Industrial Conference Board, Studies in Personnel Policy, No. 130 and 156.

The number of paid holidays granted to employees in industry has also increased markedly over the years. A study by the Bureau of National Affairs shows that the number has increased from year to year and the number of companies with none had shrunk by 1962 to 2%.

NUMBER OF PAID HOLIDAYS IN UNION CONTRACTS

1953, 1957, 1960, and 1962

Number of Paid Holidays	Per Cent of Contracts			
	1953	1957	1960	1962
None	10%	10%	9%	2%
Below 7	62	33	19	18
7	15	40	44	43
7½	-			
8	8	11	20	28
8½	-			
9	2	3	4	9
Over 9	3	3	4	

Source: Bureau of National Affairs, Inc., Collective Bargaining Negotiations and Contracts, "Basic Patterns in Union Contracts," p. 15:153, 1953, p. 57:287, 1957, and What's New in Collective Bargaining Negotiations and Contracts, No.384, February 19, 1960, and No. 439, March 30, 1962.

Premium Pay For Holidays Worked

In the historical development of holiday pay in American industries, the first practice was the premium pay for those who had to work when others were off to enjoy the holiday. This was premium pay for the holiday, if worked. The effect was to discourage unnecessary work on holidays and to make up in pay for the loss of the holiday occasion with one's family when work on the day was unavoidable.

This practice has become so near to being universal now that nurses and other hospital employees in virtually all hospitals, both government and private, have paid holidays, seamen on transoceanic vessels get paid holidays, as do transit and over-the-road bus operators. This kind of holiday pay is covered by paragraph 2 of the Brotherhood holiday proposal.

Income Maintenance

Next in the development of holiday pay were measures to make up the pay of employees who were laid off on holidays, so that observance of the holiday occasion did not result in loss of weekly income. This is not likely perhaps in the porter's occupation but it is provided for in paragraph 3(b) of the holiday proposal, thus matching the non-operating employees' past practice and present proposal. There is no cost to a carrier if the situation does not arise.

Holiday Benefits

Finally, holidays have become an added benefit enjoyed in one way or another by all workers under a contract. This is provided for by requiring payment of holiday pay to all employees even though the holiday does not fall on a scheduled work day. This is the guaranteed paid holiday and the idea is a holiday benefit for enjoyment of the holiday occasion plus extra premium pay for the unfortunate individual who cannot avoid working when everyone else is enjoying Christmas, July 4th, Labor Day, etc. with family and friends. This is covered in paragraph 3(a) of the holiday proposal. Equalization of benefits to all employees requires that holidays falling within an employee's vacation be paid for in the same manner as they would be paid for if the employee were not on vacation. This is provided for in paragraph 6 of the Brotherhood's vacation proposal.

Holidays in the Railroad Industry

Some railroad employees have had union negotiated premium pay for work on holidays for almost 60 years. By the time of Federal control of the railroads in World War I, there was some special consideration for holiday work for most classes,and shop mechanics (with exceptions) had time and a half premium for holiday work. With some exceptions, the non-operating employees had the principle of time and a half for work on holidays in most classes under decisions of the U. S. Railroad Labor Board in 1924.

By the end of World War II in 1945, exceptions had been generally eliminated and practically all railroad employees in the non-operating employee bargaining orbit had achieved time and one-half pay for work on holidays. Dining car employees and sleeping car porters were the main exceptions.

In 1954, based on the recommendation of Emergency Board No. 106, the co-operating non-operating organizations negotiated agreements for seven paid holidays when such holdiays fell on the scheduled work days of employees. Since then, most railroad employees have had the seven holidays off to spend with their families but have been paid for the day so that their weekly or monthly wage was unchanged. Those who were required to work were paid time and one-half in addition to their regular straight time pay for a total of two and one-half times the regular rate for the day.

Monthly salaried non-operating employees were given pay for holidays not worked by adding 1/12th of annual holiday hours' pay to the monthly salary so that now it can be said holiday pay is in the monthly salary rate.

Carriers are likely to try to claim that porters are paid for all days of a month because of the way that porters' hours are prorated over all the days of the month. Any such claim can be firmly rejected since only hours worked (or available for work under the guarantee) are so prorated. Hours prorated by carriers to layover days are really a spreading out of hours of trips completed for purpose of saving the carriers additional wage payments to porters for overtime in one month or for payments under the guarantee in other months when trips do not average out near the basic monthly hours. (This was all thoroughly demonstrated in the hearings before the emergency board in 1963, and Mr. Boeckelman admitted that the Brotherhood's analysis of the prorating system was correct.)

The plain facts are that porters who do not work on holidays get no pay for the holiday. Those who do work on a holiday, such as Christmas day, receive no more for that day than for any other day of the year. This inequality of treatment has already existed many years too long. Of some half a million workers that are in the non-operating employees' bargaining pattern, only the porters and dining car employees get no paid holidays after all of these years.

Demands of the operating brotherhoods for paid holidays have been held up for five years in the controversy over work rules. Finally, now after intense negotiations in the White House, paid holidays have been won for all operating employees except those paid on a mileage basis.

The main changes proposed by the non-operating organizations are the increase in number of holidays from 7 to 9, and pay for the holidays regardless of whether they fall on scheduled work days. The Brotherhood proposes that porters be accorded the same treatment as other railroad workers.

Present holiday rules of the non-operating groups are reproduced here for reference.

1954 HOLIDAY RULE

ARTICLE II — HOLIDAYS

Section 1. Effective May 1, 1954, each regularly assigned hourly and daily rated employee shall receive eight hours' pay at the pro rata hourly rate of the position to which assigned for each of the following enumerated holidays when such holiday falls on a workday of the workweek of the individual employee:

New Year's Day	Labor Day
Washington's Birthday	Thanksgiving Day
Decoration Day	Christmas
Fourth of July	

Note: This rule does not disturb agreements or practices now in effect under which any other day is substituted or observed in place of any of the above-enumerated holidays.

Section 2(a). Monthly rates, the hourly rates of which are predicated upon 169⅓ hours, shall be adjusted by adding the equivalent of 56 pro rata hours to the annual compensation (the monthly rate multiplied by 12) and this sum shall be divided by 12 in order to establish a new monthly rate. The hourly factor will thereafter be 174 and overtime rates will be computed accordingly.

Weekly rates that do not include holiday compensation shall receive a corresponding adjustment.

Section 2(b). All other monthly rates of pay shall be adjusted by adding the equivalent of 28 pro rata hours to the annual compensation (the monthly rate multiplied by 12) and this sum shall be divided by 12 in order to establish a new monthly rate. The sum of presently existing hours per annum plus 28 divided by 12 will establish a new hourly factor and overtime rates will be computed accordingly.

Weekly rates not included in Section 2(a) shall receive a corresponding adjustment.

Section 3. An employee shall qualify for the holiday pay provided in Section 1 hereof if compensation paid by the Carrier is credited to the workdays immediately preceding and following such holiday. If the holiday falls on the last day of an employee's workweek, the first workday following his rest days shall be considered the workday immediately following. If the holiday falls on the first workday of his workweek, the last workday of the preceding workweek shall be considered the workday immediately preceding the holiday.

Compensation paid under sick-leave rules or practices will not be considered as compensation for purposes of this rule.

Section 4. Provisions in existing agreements with respect to holidays in excess of the seven holidays referred to in Section 1 hereof, shall continue to be applied without change.

Section 5. Nothing in this rule shall be construed to change existing rules and practices thereunder governing the payment for work performed by an employee on a holiday.

(Agreement of August 21, 1954)

1960 HOLIDAY RULE CHANGES

ARTICLE III - HOLIDAYS

Article II, Sections 1 and 3 of the Agreement of August 21, 1954, are hereby amended, effective July 1, 1960, to read as follows:

Section 1. Subject to the qualifying requirements applicable to regularly assigned employees contained in Section 3 hereof, each regularly assigned hourly and daily rated employee shall receive eight hours' pay at the pro rata hourly rate of the position to which assigned for each of the following enumerated holidays when such holiday falls on a workday of the workweek of the individual employee:

New Year's Day
Washington's Birthday
Decoration Day
Fourth of July
Labor Day
Thanksgiving Day
Christmas

Subject to the qualifying requirements applicable to other than regularly assigned employees contained in Section 3 hereof, all others who have been employed on hourly or daily rated positions shall receive eight hours' pay at the pro rata hourly rate of the position on which compensation last accrued to him for each of the above-identified holidays if the holiday falls on a work day of the work week as defined in Section 3 hereof, provided (1) compensation for service paid him by the carrier is credited to 11 or more of the 30 calendar days immediately preceding the holiday and (2) he has had a seniority date for at least 60 calendar days or has 60 calendar days of continuous active service preceding the holiday beginning with the first day of compensated service, provided employment was not terminated prior to the holiday by resignation, for cause, retirement, death, non-compliance with a union shop agreement, or disapproval of application for employment.

The provisions of this Section and Section 3 hereof applicable to other than regularly assigned employees are not intended to abrogate or supersede more favorable rules and practices existing on certain carriers under which other than regularly assigned employees are being granted paid holidays.

Note: This rule does not disturb agreements or practices now in effect under which any other day is substituted or observed in place of any of the above enumerated holidays.

Section 3. A regularly assigned employee shall qualify for the holiday pay provided in Section 1 hereof if compensation paid him by the carrier is credited to the workdays immediately preceding and following such holiday or if the employee is not assigned to work but is available for service on such days. If the holiday falls on the last day of a regularly assigned employee's workweek, the first workday following his rest days shall be considered the workday immediately following. If the holiday falls on the first workday of his workweek, the last workday of the preceding workweek shall be considered the workday immediately preceding the holiday.

All others for whom holiday pay is provided in Section 1 hereof shall qualify for such holiday pay if on the workday preceding and the workday following the holiday they satisfy one or the other of the following conditions:

(i) Compensation for service paid by the carrier is credited; or

(ii) Such employee is available for service.

Note: "Available" as used in subsection (ii) above is interpreted by the parties to mean that an employee is available unless he lays off of his own accord or does not respond to a call, pursuant to the rules of the applicable agreement, for service.

For purposes of Section 1, the workweek for other than regularly assigned employees shall be Monday to Friday, both days inclusive, except that such employees who are relieving regularly assigned employees on the same assignment on both the work day preceding and the work day following the holiday will have the workweek of the incumbent of the assigned position and will be subject to the same qualifying requirements respecting service and availability on the work days preceding and following the holiday as apply to the employee whom he is relieving.

For other than regularly assigned employees, whose hypothetical work week is Monday to Friday, both days inclusive, if the holiday falls on Friday, Monday of the succeeding week shall be considered the workday immediately following. If the holiday falls on Monday, Friday of the preceding week shall be considered the workday immediately preceding the holiday.

Compensation paid under sick-leave rules or practices will not be considered as compensation for purposes of this rule.

ARTICLE III, HOSPITAL, SURGICAL AND MEDICAL BENEFITS AND GROUP LIFE INSURANCE

The Brotherhood has proposed that the hospital, surgical and medical benefits provided in the existing plan be continued without change, and that Group Life Insurance coverage for active employees be increased from $4,000 to $6,000; it is also asked that Group Life Insurance in the amount of $2,000 be provided for retired employees, retiring on or after March 1, 1964.

Group Life Insurance For Active Employees

The non-operating agreement of August 19, 1960 established a life insurance benefit of $4,000 for all active non-operating railway employees. That amount was established in the light of conditions shown in studies made in 1957 and 1958. There has been significant progress made in the amount of life insurance provided industrial workers since those years. The Bureau of National Affairs, in its 1961 annual report on "Basic Patterns in Union Contracts" reported as follows:

> "The value of policies likewise is reflecting the upward trend. Of the contracts stating the size of policies, two thirds provide maximum amounts of $3,000 and up, and *fully three eighths provide $5,000 or more;* in 1957, about three fifths had ceilings of $3,000 or more.
>
> * * * * *
>
> "A maximum benefit of $6,000 or more predominates in chemicals, primary metals, and transportation equipment." (pp. 44:2-3)

The Bureau of Labor Statistics has reported similar progress in the amount of life insurance benefits available to employees covered by negotiated health and insurance plans it studied.

> "The amount of the life insurance benefits increased in about a fourth of the 97 plans . . . under the Pittsburgh Plate Glass Co.—Glass and Ceramic Workers plan, the uniform benefit for male employees increased from $2,000 to $5,000.
>
> ". . . the Caterpillar Tractor—United Automobile Workers plan raised the minimum benefit from $2,000 to $4,000 and the maximum from $6,000 to $7,500 . . ." [8]

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[8] United States Department of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, September 1962, pp. 1016-1017.

Throughout industry the amount of life insurance benefit is very commonly related to the wage level of employees in one way or another. The annual survey article on employee benefit plans in the Social Security Bulletin,* states that

> "...most active workers with life insurance have policies with face values equivalent at least to a year's salary."

Many of the benefit plans in the Bureau of Labor Statistics' Digest base insurance benefits on wages and provide double the annual rate of earnings. Examples of some of the provisions in agreements of leading companies are shown in the following list:

	Wage Bracket (Hourly)	Amount of Insurance
Bethlehem Steel Co.	$2.49-$2.89	$5,000
Owens-Illinois Glass Co.	2.41 & over	6,000
U. S. Steel Corporation	2.49- 2.89	5,000
Westinghouse Electric Corp.	2.25- 2.50	7,500
	2.50- 2.75	8,250
Caterpillar Tractor Co.	2.38- 2.63	5,000
Ford Motor Co.	2.40- 2.65	6,000
General Motors Corp.	2.40- 2.65	6,000
International Harvester Co.	(weekly) $86-$105	7,800

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* Published by the Department of Health, Education and Welfare, April, 1962, p. 11.

	Ratio to Annual Compensation (Approximate)
Armstrong Cork Co.	Equivalent
Liggett & Myers Tobacco Co.	Double base pay
General Foods Corp.	Double
West Virginia Pulp and Paper Co.	Equivalent to basic earnings
Texaco Inc.	Double
Lever Brothers	Equivalent straight-time earnings
Sinclair Oil Co.	Double base pay
Continental Can Co.	Twice base pay
Weirton Steel Co.	Equivalent to earnings excluding bonus
Radio Corp. of America	One and a half times base wage
Sperry Gyroscope Co.	Double
Kennecott Copper Corp.	Equivalent to straight-time basic wage
Pennsylvania Power & Light Co.	Double straight-time earnings
American Telephone & Telegraph Co.	Base pay equivalent

Source: United States Department of Labor, Bureau of Labor Statistics, Bulletin No. 1330, Digest of One Hundred Selected Health and Insurance Plans Under Collective Bargaining, Winter 1961-1962.

Group Life Insurance For Retired Employees

A substantial proportion of companies providing life insurance programs for active employees are now also providing some insurance for retired employees. This was noted in a study made in 1960 by the Bureau of Labor Statistics of 300 health and insurance plans:

> "Life insurance was provided active workers by 295 of the 300 plans studied. This benefit was extended to retired workers by almost 2 out of 3 of these plans (189) representing the same proportion of the workers in the sample."[9]

The study noted that, as of that time (1960), benefits to retired employees were somewhat less than those established for active employees. In recognition of this fact, the Brotherhood has asked that the insurance benefits to be granted retired employees be held to $2,000 as compared to $6,000 proposed for active employees.

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[9] United States Department of Labor, Bureau of Labor Statistics, Bulletin No. 1296, Health and Insurance Plans Under Collective Bargaining, Life Insurance and Accidental Death and Dismemberment Benefits, Early Summer 1960.

Life insurance for retired members is especially important to the largest group of Brotherhood members because of the fact of compulsory retirement at 70 in the Pullman Company. Other railroad workers work past this age depending on their own choice, economic situation and physical condition, thus, in many cases retaining the group insurance longer as well as continuing to earn and prepare for retirement for a little longer. The inadequacy of survivor benefits under the Railroad Retirement Act shows the need for substantial amounts of life insurance.

When these actual benefit payments are compared with the city worker's budget for families of one to four persons, the deficit (as shown in the following table) is more than a third as large in all cases.

COMPARISON OF BUDGET COSTS WITH AVERAGE SURVIVOR BENEFITS UNDER THE RAILROAD RETIREMENT ACT

Size of Family	Estimated Cost of Budget 1/	Average Survivor Benefits 2/	Deficit
Aged Widow or Widower	$2,419	$ 852	$1,567
Widowed Mother and One Child	3,311	1,860	1,451
Widowed Mother and Two Children	4,171	2,772	1,399
Widowed Mother and Three Children	4,907	2,940	1,967
One Parent	2,419	900	1,519
Two Parents	3,311	1,476	1,835

1/ As of August, 1963.

2/ Average for survivors in current payment status on December 31, 1961.

Source of Basic Data: United States Department of Labor, Bureau of Labor Statistics, City Worker's Family Budget, and Consumer Price Index; Bureau of National Affairs, Inc., 32 LRR 233, August 3, 1953; United States Railroad Retirement Board, Annual Report, 1962.

The Life Insurance Fact Book for 1963 states that:

> "Many group life insurance plans provide for continuation of coverage after retirement. Of the larger plans (generally more than 5,000 employees), nearly three-quarters now continue coverage, compared with about one-half ten years ago. In most cases the insurance is for a reduced amount." (p. 26)

All types of social insurance benefits are increasingly being extended to retired employees. The Bureau of National Affairs reports this development as follows in Basic Patterns in Union Contracts, April 1961:

> "*Post-retirement coverage* is an increasingly popular feature of social insurance plans. The benefit most often continued is life insurance—seen in 33 percent of contracts, or just under half of all life insurance plans; this is an increase of more than a third since 1957. A reduced benefit is provided in nearly all cases; of the contracts that state the size of reduced policies, about one fourth specify a maximum benefit of $2,000 or more, three tenths specify a maximum of more than $1,000 but less than $2,000, and the rest—just under half—provide a ceiling of $1,000 or less. Retirees are required to contribute in little more than a tenth of the cases.
>
> Hospital benefits are continued after retirement under 15 percent of contracts, surgical benefits under 14 percent; in each case, this is more than a fifth of the total number of contracts providing such benefits. Continuation of regular benefits is about half again as common a practice as continuation of reduced benefits. Retirees must share the cost in about half the cases.
>
> *Industry pattern:* The provision of life insurance for retirees is most common—two fifths or more of contracts—in these industries: chemicals, electrical machinery, fabricated metals, food, nonelectrical machinery, primary metals, rubber, transportation equipment, and maritime. With the exception of primary metals and maritime, these industries also lead in continuation of hospital and surgical benefits after retirement. "

In the light of these trends in benefit practices in United States industry, the proposal of the Brotherhood for retired workers is very modest. The only benefit proposed is life insurance and the proposed amount, $2,000, is only one third the amount requested for active employees. Need for this request rests on the all-too-well-known fact that responsibilities of wage earners, heads of families, do not suddenly cease when age 65 is reached.

Hospital, Surgical and Medical Benefits

Brotherhood proposals contemplate continued financing of the present hospital, surgical and medical benefits and the improved life insurance by the carriers. This is in keeping with practices generally followed in other industry.* Increases in payments per qualifying employee per month required to support this program shall be made to The Travelers Insurance Company. The maximum hospital association dues required to be paid by employers having hospital associations shall be increased by the amount of increase in the premium paid to The Travelers Insurance Company on behalf of each employee for his own hospital, surgical and medical benefits, as provided in Group Policy Contract GA-23000.**

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* Basic Patterns in Union Contracts, pp. 44:7-8.

** Some operating employee groups have just completed negotiation of their first health and welfare program, similar in general to the non-operating insurance pattern but with a slightly different package of benefits.

ARTICLE IV, STABILIZATION OF EMPLOYMENT

The Proposal

The Brotherhood is requesting the same broad stabilization program that has already been proposed by the non-operating organizations except that the effective date proposed is eleven months later (May 31, 1964). (It is reproduced in full on pages 9, 10 and 11 of this handbook.) Some aspects of this proposal may have little application to porters. However, that is also true of many of the multitude of classes of non-operating employees. Adoption of the same rules will, however, make sure that treatment of Brotherhood members will be equal and on a par with other railroad workers. Rules that have no effect will cause no problems or cost to the carriers.

The Need For Stabilization

The Brotherhood has already abundantly proved that porters have suffered many hardships due to insecurity of employment and long periods of unemployment. This proof was presented to the Presidential Emergency Board in 1963. (For details on seniority status, ages, employment, etc., refer to Employees' Exhibit No. 5 before Presidential Emergency Board No. 155.) Among the mass of details presented in that case were such facts as over 3,000 porters furloughed from the Pullman Company, many districts where Pullman porters must have 35 years' seniority to work, districts where there is practically no work for any men on the seniority rosters.

The Board accepted this evidence in large measure and summed it up as follows in its report to the President:

> "Witnesses for the Brotherhood have spoken eloquently of the problems of sleeping car porters, men whose long years of service bespeak a commitment to the railroad industry and a general age level that makes retraining difficult and reemployment uncertain. The Organization has emphasized the fact that many porters lack transferable skills because of limited educational opportunities and because of the discouragement inherent in past and present discriminatory employment practices against even skilled Negroes. Certainly employment discrimination has existed and continues to exist, and employment alternatives are particularly restricted for older Negroes. The impasse faced by many of the Nation's older workers as they are threatened by the sweep of changed job patterns is more serious still for the senior sleeping car porter.
>
> "The job insecurity of porters is rooted in the downward trend of public use of sleeping car facilities and the resulting contraction in sleep-car schedules described above. In the case of railroads operating their own sleeping car service, the impact is immediate; contraction of schedules is reflected in the abolition of regular porters' positions and ultimately in the furloughing of the most junior members on the porters' extra board. As has been noted, the majority of sleeping car porters are employed by the Pullman Company, rather than directly by the railroads.

> "Under the Uniform Service Contract, the Board has been informed, a customer railroad may curtail or completely discontinue its use of Pullman services. The Uniform Contract contains no requirement for advance notice of curtailment of services, although in practice using railroads have given the Pullman Company from 10 to 30 days notice of elimination of cars and runs and longer notice of substantial curtailments or take overs. (Under the Uniform Contract, Pullman must receive six months notice from a railroad of intent to discontinue completely its services.) As in the case of railroad-employed porters, elimination of cars or runs results in the furloughing of Pullman porters, and take overs, in the absence of absorption of the men by the railroad, would have an even greater impact on the employment opportunities of Pullman porters."

The decline in employment of train porters is shown by the following table:

NUMBER OF TRAIN ATTENDANTS (DIVISION 101)
CLASS I LINE-HAUL RAILROADS
1953 - 1963

Year	Number
1953	4,080
1954	3,790
1955	3,587
1956	3,500
1957	3,403
1958	3,066
1959	3,132
1960	2,975
1961	2,748
1962	2,705
1963 - October	2,508

Source: Interstate Commerce Commission, Statement M-300.

The Responsibility of the Railroad Industry

The 1963 Emergency Board (No. 155) accepted the Pullman Company claim that it was a separate entity and that the railroad industry was not responsible for the employment conditions of sleeping car porters. Final negotiations overcame this obstacle when J. E. Wolfe, Chairman of the National Railway Labor Conference, committed all of the railroads to give some protection to porters in the event of a takeover of service by any railroad from the Pullman Company. This commitment has since been approved by the railroads themselves.

Copies of these agreements follow for reference.

NATIONAL RAILWAY LABOR CONFERENCE

At Washington, D. C.
December 17, 1963

Mr. A. Philip Randolph, Int. Pres.,
Brotherhood of Sleeping Car Porters,
Washington, D. C.

Dear Sir:

In conformity with the assurances I gave to Mr. James Reynolds, Assistant Secretary of Labor, in connection with our mutual desire to dispose of the Section 6 notice your organization served upon the Pullman Company, with particular reference to employee protection, I will submit to the railroads who are now availing themselves of the services provided by the Pullman Company a procedure designed to avoid sleeping car porters and attendants from losing their jobs, as outlined herein below:

1. In the event a Carrier exercises its right under the contract existing between the Pullman Company and the Carriers to discontinue using the services provided by the Pullman Company, sleeping car porters and attendants who otherwise would lose their jobs as a result of the Carrier's withdrawal from participation in Pullman activities will be permitted to follow their work to the extent the Carrier requires the use of sleeping car porters and attendants.

2. In the application of Section 1 hereof a Carrier, upon cancellation of its contract with the Pullman Company, will notify said Pullman Company that it intends to employ a stipulated number of sleeping car porters and attendants, and thereupon the Pullman Company will give this information to sleeping car porters and attendants in the district in which the Carrier's principal operations are conducted, and the sleeping car porters and attendants who desire to accept the proffered employment may do so in seniority order.

3. Sleeping car porters and attendants who are employed by a Carrier in conformity with Sections 1 and 2 hereof will retain their seniority standing insofar as those who accept employment with that particular Carrier are concerned, and they will be paid the same monthly salary under the conditions applicable to them when they were in the service of the Pullman Company. Such sleeping car porters and attendants will also retain whatever vacation privileges they had, based upon years of service when employed by the Pullman Company.

4. The provisions of Sections 1, 2 and 3 hereof will not apply on any Carrier where existing collective bargaining agreements with other labor organizations would prevent such handling.

If you agree that the conditions herein above set forth correspond with the tentative understandings described to you by Mr. James Reynolds, Assistant Secretary of Labor, will you please affix your signature in the space provided therefor at the lower left-hand corner of this communication. If you do so the letter of understanding will be immediately transmitted to Carriers now participating in Pullman activities for ratification, and you will be subsequently advised in connection therewith.

Yours very truly,

A. Philip Randolph

International President,
Brotherhood of Sleeping Car Porters

cc: Mr. James Reynolds
Mr. F. J. Boeckelman

NATIONAL RAILWAY LABOR CONFERENCE

Room 474, Union Station
517 West Adams Street
Chicago 6, Illinois
Telephone: 726-6900

J. E. WOLFF, Chairman

J. J. Gaherin, Chairman,
Eastern Carriers' Conference Committee
F. H. Hallmann, Chairman,
Western Carriers' Conference Committee
C. A. McRee, Chairman,
Southeastern Carriers' Conference Committee

H. E. Greer,
Director of Research
J. F. Griffin,
Administrative Secretary

At Washington, D. C.
March 5, 1964

Mr. A. Phillip Randolph, Int. Pres.,
Brotherhood of Sleeping Car Porters,
217 West 125th Street, Room 301,
New York 27, N. Y.

Dear Mr. Randolph:

This is to advise that the railroads listed below have ratified the understanding entered into at Washington, D.C. on December 17, 1963, having for its purpose establishing a procedure designed to avoid sleeping car porters and attendants from losing their jobs to the extent and in the manner set forth therein:

Atchison, Topeka & Santa Fe
Atlanta & West Point
Atlantic Coast Line
Baltimore & Ohio
Chesapeake & Ohio
Chicago, Burlington & Quincy
Chicago & Eastern Illinois
Chicago & North Western
Milwaukee
Denver & Rio Grande Western
Erie-Lackawanna
Great Northern
Gulf, Mobile & Ohio
Illinois Central
Louisville & Nashville
Missouri-Kansas-Texas
Missouri Pacific
New York, Chicago & St. Louis
Norfolk & Western
Northern Pacific
Pennsylvania
Richmond, Fredericksburg & Potomac
St. Louis-San Francisco
Seaboard Air Line
Soo Line
Southern Pacific
Spokane, Portland & Seattle
Texas & Pacific
Union Pacific
Wabash
Western Pacific

Yours very truly,

/s/ J. E. WOLFF

cc: Messrs. James Reynolds
F. J. Boeckelman

Received
Mar 9 1964
Office of the President

THE RECOMMENDATION OF EMERGENCY BOARD NO. 155 FOR FUTURE STABILIZATION OF PORTERS' EMPLOYMENT

The Report of Emergency Board No. 155 (November 2, 1963) to the President on the dispute between the Brotherhood of Sleeping Car Porters and the Pullman Company, New York Central, Rock Island and Soo Line, contained the following passage which is very pertinent to the proposals that the Brotherhood is now filing in 1964:

> "Although regretfully cognizant of the insecurity faced by sleeping car employees, the Board must conclude at this time it cannot recommend the granting of the Organization's proposals for income protection.
>
> "It should be noted, however, that there are now pending in the railroad industry various protection proposals served by the nonoperating Organizations which in the foreseeable future may establish a pattern responsive to the needs of the sleeping car porters. The porters have followed the pattern of the nonoperating unions in wage increases for a long period of time. Should new protective conditions be established for the nonoperating employees, it will be a more fitting season for joint consideration of the application of such conditions to the characteristics of the sleeping car business. " (pp. 46,7)

That "season" is now!

THE PROSPERITY OF THE RAILROAD INDUSTRY

Evidence submitted to Emergency Board No. 155 in the 1963 case established clearly that sleeping car service, Pullman and otherwise, is an integral part of the overall railroad business. This was fully acknowledged by the railroad industry when J. E. Wolfe, chief negotiator for the railroads, participated in the final negotiations that settled that dispute and finally entered into an agreement with the Brotherhood in behalf of the industry.

It was clearly established that Pullman space charges are only a minor part of the railroad income from the transportation of first class passengers in Pullman cars and, also, that the "passenger deficit" bugaboo is mainly useful as propaganda to cover up the passenger contribution to railroad revenues, cash flow, and profits.

In 1964, even the railroads admit that they are making lots of money so that the "poor mouth" issue is not as important as in former years. The Brotherhood insists that its members must have at least equal treatment with other American workers regardless of the ups and downs of corporate profits. Human rights must always come before property rights. However, material on the following pages can counter the tired old tales of railroad poverty if they are trotted out again.

EXCERPT ON FINANCIAL CONDITION OF RAILROAD INDUSTRY

From Report of Emergency Board No. 154, in Proceeding Between U. S. Railroads and Five Operating Brotherhoods

May 13, 1963

We are mindful also of the necessity for progress in the railroad industry, for efficiency in order to meet the challenge of competing industries. We were impressed with the evidence submitted to us that the vitality and earning capacity of the railroads as a whole are improving, that the productivity of its workers is rising at a rapid rate, and that the industry can face the future with confidence and even optimism. (p. 5)

* * * *

Nathan P. Feinsinger, Member

Clark Kerr

Clark Kerr, Member

Samuel I. Rosenman, Chairman

Washington, D. C.
May 13, 1963

NET INCOME, DEPRECIATION AND RETIREMENTS, AND CASH FLOW

CLASS I LINE-HAUL RAILROADS IN THE UNITED STATES

1921 - 1963

(millions of dollars)

Year	Net Income (1)	Depreciation and Retirements (Incl. in Op. Exp.) (2)	Cash Flow (3)
Average, 1921-1929	629.2	215.0	844.2
Average, 1930-1939	73.7	205.5	279.2
1940	188.9	205.9	394.7
1941	499.8	233.3	733.1
1942	901.7	338.2	1,239.9
1943	873.5	465.5	1,339.0
1944	667.2	540.5	1,207.6
1945	450.4	1,186.8	1,637.3
1946	287.1	365.9	653.0
1947	478.9	385.8	864.6
1948	698.1	409.3	1,107.4
1949	438.2	441.7	879.8
Average, 1940-1949	548.4	457.3	1,005.7
1950	783.6	466.6	1,250.2
1951	693.2	485.2	1,178.3
1952	825.4	513.1	1,338.5
1953	903.2	534.5	1,437.7
1954	681.7	547.3	1,229.0
1955	927.1	554.6	1,481.7
1956	876.3	569.6	1,445.9
1957	737.4	596.4	1,333.8
1958	601.7	618.1	1,219.8
1959	577.7	625.9	1,203.6
Average, 1950-1959	760.7	551.1	1,311.8
1960	444.7	634.8	1,079.4
1961	382.4	652.3	1,034.7
1962	571.0	660.6	1,231.6
1963	651.0	676.6	1,327.6

Source: Interstate Commerce Commission, Transport Statistics in the United States; Association of American Railroads, Railway Revenues and Expenses.

ACID FREE
PH 8.5
THE HOLLINGER CORPORATION
ARLINGTON, VIRGINIA

Presentation of
Brotherhood of Sleeping Car Porters
Before Dr. Philip Taft
Impartial Umpire
AFL-CIO Case No. 64-64
Washington, D. C.
August 14, 1964

A. PHILIP RANDOLPH
International President

MILTON P. WEBSTER
1st International Vice-President
3947 Drexel Boulevard
Chicago, Illinois 60653

BENNIE SMITH
2nd International Vice-President
1308 Broadway, Room 305
Detroit, Michigan 48226

BROTHERHOOD of SLEEPING CAR PORTERS
Train, Chair Car, Coach Porters and Attendants
AN INTERNATIONAL UNION
Affiliated with the AFL-CIO/CLC

217 WEST 125th STREET - Room 301
NEW YORK, N.Y. 10027

MOnument 2-5080 - 1

WILLIAM H. BOWE
Acting International Secy.-Treas.

C. L. DELLUMS
3rd International Vice-President
1716 Seventh Street
Oakland, California 94620

T. D. McNEAL
4th International Vice-President
2906a North Union Boulevard
St. Louis, Missouri 63115

B. F. McLAURIN
Eastern Zone Supervisor

August 14, 1964.

Case No. 64-64. New)
York, New Haven and)
Hartford Railroad)

PRESENTATION OF THE BROTHERHOOD OF SLEEPING CAR PORTERS, TRAIN, CHAIR CAR, COACH PORTERS AND ATTENDANTS BEFORE DR. PHILIP TAFT, IMPARTIAL UMPIRE, IN ANSWER TO THE CHARGE BY THE HOTEL AND RESTAURANT EMPLOYES AND BARTENDERS UNION THAT THE B.S.C.P. IS RAIDING ITS JURISDICTION ON THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD.

The Brotherhood of Sleeping Car Porters, Train, Chair Car, Coach Porters and Attendants (hereinafter referred to as the B.S.C.P) contends and proposes to prove that the Hotel and Restaurant Employes and Bartenders Union (hereinafter referred to as the H.R.E.&B.) does not come before the AFL-CIO and this Honorable Umpire on this charge with clean hands or with any semblance of justice, equity or ethics on their side.

The B.S.C.P. contends and will prove that the H.R.E. & B., by its own deliberate, consistent and systematic actions over the years, has forced the B.S.C.P. to take the action now being complained of on the New York, New Haven and Hartford Railroad.

The B.S.C.P. contends and will prove that several years after the AFL gave jurisdiction over coach and parlor car porters to the B.S.

C.P.., the General Executive Board of the H.R.E.&B. took formal action approving its dining employes locals taking jurisdiction over "coach and parlor car service on railroads."

The B.S.C.P. contends and will prove that the H.R.E.&.B. has invaded the jurisdiction of the B.S.C.P. and signed damaging sub-standard agreements covering work of railroad porters.

The B.S.C.P. contends and will prove that the H.R.E.&B has, and still does, spread malicious and vicious stories among our members across the nation to the effect that the B.S.C.P. is not a part of the regular, recognized and respected labor movement.

The B.S.C.P. will prove that in its desperate and unprincipled efforts to raid the jurisdiction of the B.S.C.P., since the adoption of Article XXI of the AFL-CIO Constitution, the H.R.E.&B. abandoned trade union principles to the extent and stooped low enough to actually offer in writing to furnish their lawyers for B.S.C.P. members to sue the B.S.C.P!

Finally, with reference to the instant case, the B.S.C.P. will prove beyond any possible doubt, that the members the H.R.E.&B. are before this Honorable Umpire complaining about us raiding in violation of Article XXI, are actually people whom the B.S.C.P. represented for many, many years and whom these complainants themselves raided two years ago in open, brazen, flagrant violation of the same Article XXI under which they now seek to penalize the B.S.C.P.

Case No. 64-64

JURISDICTION OF THE BROTHERHOOD OF SLEEPING CAR PORTERS, TRAIN, CHAIR CAR, COACH PORTERS AND ATTENDANTS.

Beginning in 1925, the porters, attendants, maids and bus boys employed on the sleeping, club, composite and parlor cars on the railroads of the nation began building what was then an independent union. Beginning early in 1929, the American Federation of Labor issued Federal Charters to 20 or more of the Locals of this union, across the country.

In June of 1936, the American Federation of Labor granted an International Charter to the Brotherhood of Sleeping Car Porters, with jurisdiction over sleeping car porters, club car attendants, parlor car porters, bus boys and maids employed on trains.

In connection with the 1938 A. F. of L. Convention, held at Houston, Texas, and upon the request of several groups of Federal Chartered train porters, chair car porters and coach attendants, President Green and the Executive Council extended the jurisdiction of the Brotherhood of Sleeping Car Porters to cover such workers employed on railroad coaches and, at the same time, ordered all such groups holding Federal Charters to become a part of the Brotherhood of Sleeping Car Porters.

Subsequently, in order that the organization's name might more adequately reflect its new jurisdiction, the A. F. of L. approved changing the name of the organization to: "Brotherhood of Sleeping Car Porters, Train, Chair Car, Coach Porters and Attendants."

ACTIVITIES OF HOTEL & RESTAURANT EMPLOYES AND BARTENDERS UNION.

During the foregoing period, unsuccessful attempts were made by the

Hotel and Restaurant Employes and Bartenders Union to get the American Federation of Labor to give that organization jurisdiction over the membership of the B. S. C. P. Failing in those efforts, the H. & R. E. & B. proceeded to systematically and consistently raid the jurisdiction of the B. S. C. P.

Attached hereto as an addendum and identified as our Exhibit No. 1 is a photostatic copy of Page 1 of a 7 page document, under date of November 5, 1945, sent to members of the General Executive Board of the H. R. R. & B. by Acting General President and General Secretary-Treasurer Hugo Ernst. This "Proposition "1109" had to do with a dispute between H. R. E. & B. Locals Nos. 41, 52 and 456 concerning bartenders.

However, the significant part of "Proposition #1109" is that the first paragraph clearly shows that despite the fact that the A.F. of L. had (in 1936 and 1938) granted jurisdiction over service in coaches and parlor cars to the B. S. C. P., the General Executive Board of the H. R. E. & B. in a formal session of that body held in Buffalo, N. Y., on Monday, February 26, 1945, formally voted that "all coach and parlor car service on railroads be under jurisdiction of dining car local union". (emphasis added) This entire document is available for examination.

Thus, it appears clear that for at least 19 years, the H. R. E. & B. has had no official intention of respecting the jurisdiction granted the B. S. C. P. by the Labor Movement.

In order that the Honorable Umpire and the A. F. L. -C. I. O. may get the present situation in proper focus and perspective, the B. S. C. P. presents for your consideration the following examples of our experience over the years in trying to protect our jurisdiction from encroachment upon and outright raiding by the H. R. E. & B. (We invite and urge your examination and consideration of the exhibits attached hereto as addenda).

ILLINOIS CENTRAL RAILROAD

Prior to affiliating with the Brotherhood of Sleeping Car Porters, Illinois Central Train and Parlor Car Porters were represented by an A. F. of L. Federal Chartered Local. As a result of action taken by the A. F. of L. at Houston in 1938, this group of workers later became a part of the B. S. C. P.

In 1940, the Illinois Central planned to put on a new train between Chicago and Miami to be known as the "City of Miami". The Chief Personnel Officer of the Illinois Central, a Mr. Young at that time, called for a joint conference with the B. S. C. P. which held the agreement for porters and H. & R. E. & B. Local 351 which held the agreement for dining car employes.

The joint conference was held in the general offices of the Illinois Central at Chicago. The railroad was represented by Chief Personnel Officer Young. The H. &. R. E. & B. was represented by General Chairman Seltzer of their Local 351 and, Thomas Edge, System Chairman for the H. & R. E. & B. on the Illinois Central. The B. S. C. P. was represented by M. P. Webster, 1st International Vice President.

The railroad representative, Mr. Young, proceeded to tell the representatives of the two unions that the new train was going on and that the railroad wanted to arrange for the use of a new classification to be known as "Porter-Waiter". He said that these would be "combination jobs" and that the men would perform the work of both porters and waiters. The railroad wanted to take the men for the new classification from the rosters of both unions. The representatives of the two unions took the position that they would have to discuss the matter between themselves before giving the railroad an answer.

The Union representatives then retired to the Chicago offices of H. & R. E. & B. Local Union 351 where representatives of both unions discussed the validity of such combination positions. Both unions definitely agreed that it would be against the interests of the workers to enter into any arrangement under which a porter would perform the work of a waiter or a waiter would perform the work of a porter. It was further agreed that each union would notify the Illinois Central of this joint decision and position. Letters to that effect were written and exchanged.

Several weeks later, one of the minor Illinois Central officials phoned Mr. Webster of the B. S. C. P. and asked him to come in to discuss a matter. Upon going in for the conference, Mr. Webster was advised that the Illinois Central had "decided" to give the porters one job on the new train, the conditions of which were very unaceptable. Mr. Webster, knowing that he had a "firm" agreement with the H. & R. E. & B., turned down the offer. Immediately after this conference, Mr. Webster phoned Chairman Edge of the H. & R. E. & B., told him all about the conference and asked him if the H. & R. E. & B. had been contacted. Mr. Edge advised that the H&RE&B had heard nothing from the railroad.

Hovever, about a week later, the Illinois Central posted a seniority roster for a new classification of dining car employes called "Chair Car Attendants" whose duties would be to perform the work of both porters and waiters on the "City of Miami". The salary established for the new classification was $100 per month of 240 hours with deductible rest periods enroute. The rate for porters - performing porters work alone - on the Illinois Central at that time was $120 per 240 hour month, with no deductible rest periods enroute.

When Mr. Webster confronted the H&RE&B with this matter and the absence of good faith on their part, Mr. Edge informed him that "We simply could not afford to turn those jobs down". Because of this dangerous precedent, the BSCP was forced to spend years and thousands of dollars fighting against the extension and broadening of the trend on this railroad to create hyphenated, combination porter-waiter jobs. The B. S. C. P. succeeded and until today, the "City of Miami" is the only train on the Illinois Central where a waiter does a porter's work or a porter does a waiter's work.

THE CHICAGO AND NORTHWESTERN

In 1946, the H. & R. E. & B. was having some difficulty on the Chicago and Northwestern Railroad in connection with the fact that colored cooks and white cooks were on separate rosters. In connection with this dispute a public hearing was set up by the Mediation Board. Without any consultation with the B. S. C. P., the H. & R. E. & B. suddenly filed with the Mediation Board a contention that the club car porters, represented by the B. S. C. P. should be a part of their bargaining unit.

Club car porters on the Northwestern had, for 50 years prior to that time, been a part of the craft of "Club car, Parlor Car and Chair Car Porters" and held seniority as such under the B. S. C. P. agreement.

Largely as a result of influence it was able to bring to bear at that time, the H. & R. E. & B was able to secure a ruling in its favor which had the effect of taking some 30 club car porters (against their will) out of the scope of the B. S. C. P. agreement and placing them under the scope of the H. & R. E. & B.

It will be noted that this was several years after the A. F. of L. had given jurisdiction over club car porters to the B. S. C. P. and quite some time after the B.S.C.P. had organized and written an agreement for the Club car, Parlor car and Chair car porters on the Northwestern.

A copy of the official Mediation Board record of the handling of this matter is available for examination by the AFL-CIO upon request. (See our Exhibits 2 (a) and 2 (b).

THE WABASH RAILROAD

The Wabash Railroad began operating parlor cars in 1920. From 1920 to 1922 the railroad operated these cars with employes of their own who were classified as "Parlor Car Porters". Their duties were the normal duties attached to such positions, namely: loading and unloading passengers and their bags; keeping the cars clean; attending to the heating and ventilation of the cars; performing personal services for passengers such as assisting them in taking off and putting on top coats; placing hats in bags; brushing their clothing; replenishing towels and cups; running errands on the train, etc.

In 1922 the Wabash entered into an agreement with The Pullman Company, the terms of which provided that the parlor cars were to be operated by Pullman and manned by Pullman's employes. Beginning in that year and continuing to 1956, Pullman porters performed the porter work on these Wabash parlor cars. The duties of men assigned to the Wabash parlor cars were not changed at the time of the change-over in 1922 and have not been changed since that time.

Beginning in 1925, the Brotherhood of Sleeping Car Porters began a nation wide effort to organize railroad employes classified as and performing the work of sleeping car, club car and parlor car porters. This national effort culminated in 1935 when the National Mediation Board held a nation-wide election to determine the representative for bargaining purposes of sleeping car porters, parlor car porters and club car attendants employed by Pullman, which at that time employed more than 95% of men so classified.

Under the provisions of the Railway Labor Act, the National Mediation Board has exclusive jurisdiction in the matter of determining the proper class and craft of railroad workers for bargaining purposes. In connection with the national election conducted by the Mediation Board in 1935, the Board classified and voted the men working on Wabash parlor cars as porters.

After that time and until August 1, 1956, men assigned to Wabash parlor cars were classified as porters and covered by agreements negotiated by the Brotherhood of Sleeping Car Porters. Their wages, rights and working conditions were constantly improved.

In early 1956, their wages and working conditions were considered the standard of the industry. Their current rate of pay was $368.56 for a maximum 205 hour month. They enjoyed the protection of strict seniority rules and rules on time off at home which held their actual hours on duty down to an average of 180 hours per month. They had standard vacations with pay and free medicaal, surgical and hospital insurance.

In 1951, the Brotherhood of Sleeping Car Porters succeeded in organizing the porters on coaches employed directly by the Wabash Railroad. The duties of these men were the same as those on the parlor cars. The only difference being that one group is assigned to coaches on the head end of the train and the other group assighed to parlor cars on the rear end of the train.

In January, 1956, the Wabash Railroad Company served notice on The Pullman Company that it was cancelling its contract with Pullman for the operation of parlor cars, effective August 1, 1956, and taking over the operation themselves.

Immediately after this information became public, officers of Dining Car Employes Local 354, Hotel and Restaurant Employes and Bartenders International Union began contacting officials of the Wabash Railroad urging them to place the parlor car porters' jobs under their agreement and to man the cars with waiters. According to waiters employed on the Wabash, their principal argument was that the waiters would save the railroad money in the operation of the cars.

In March of 1956, General Chairman James Mathews of Dining Car Employes Local 354, H. R. E. B., looked up International Vice President T. D. McNeal of the Brotherhood of Sleeping Car Porters in New Orleans (where both of them were holding membership meetings) to tell him that the Wabash Railroad Company had offered to sign an agreement placing the porters jobs on parlor cars under the Dining Car Employes agreement.

Mathews went on to say that since it appeared to him that these jobs were covered by the jurisdiction of the Brotherhood of Sleeping Car Porters, he thought he had better discuss the matter with the porters union. Mathews and McNeal agreed that the whole matter would be held in abeyance until after McNeal returned to St. Louis early in April, 1956, at which time it was understood that representatives of the two organizations would get together and come to a mutual agreement on the matter before anything further was done with the railroad.

Upon his return to St.Louis during the first week in April, Vice President McNeal learned that General Chairman Mathews of Dining Car Employes Local 354 had already signed an agreement with the railroad placing the parlor car porters jobs under the Dining Car Employes agreement, effective August 1, 1956.

Agreement entered into is quoted verbation below:

"MEMORANDUM OF AGREEMENT
between
WABASH RAILROAD COMPANY

And The Employees Thereof
In The Dining Car Department
Represented by
DINING CAR EMPLOYES LOCAL NO. 354

It is mutually understood and agreed that:

1. Rule 1 of the existing Agreement between the parties hereto shall be revised to read as follows:

"RULE 1
SCOPE

> The following rules will govern the rates of pay, hours of service, and working conditions of Dining Car Chefs, Cafe Car Chefs, second cooks, Third Cooks, Lounge Car Cooks, Lounge Car Attendants, Waiters, Waiters in charge, and Parlor Car Attendants, employed in the Dining Car Department of the Wabash Railroad Company."

2. Rule 2 of the existing Agreement will be changed by adding the following thereto, immediately following "LOUNGE CAR ATTENDANTS."

"PARLOR CAR ATTENDANTS...$317.96" $1.55 per hour

3. Rule 7 of the existing Agreement shall be revised to include the following:

"(e) Assignments of Parlor Attendants will be determined on the basis of fitness and ability. The officer in charge will be the judge as to fitness and ability."

This Agreement applies only with respect to parlor cars owned and being operated under the direct control and management of the Wabash Railroad Company and has no bearing or effect on any parlor cars not owned by or not operated under the direct control and management of the Wabash Railroad Company. This agreement will become effective on the date the Wabash assumes the direct operating control and management of Wabash owned parlor cars.

FOR THE EMPLOYES:	FOR THE WABASH RAILROAD COMPANY:
By /s/ James Mathews General Chairman Dining Car Employes Local No.354	By /s/ J. A. Barrett Passenger Traffic Manager
	APPROVED:
By /s/ Solomon Pleasant System Chairman	By /s/ L. E. Clarahan Vice President - Traffic

Shortly after the above agreement was signed the Wabash Railroad, with the knowledge and consent of General Chairman Mathews and System Chairman Pleasant of H. & R. E. B. Dining Car Employes Local 354, posted the following bulletin addressed to waiters:

"WABASH RAILROAD COMPANY
Dining Car Department
2028 Clark Avenue
St. Louis 3, Missouri

St. Louis, Mo., April 4, 1956
File No. 16

BULLETIN

WAITERS:

Effective August 1, 1956, parlor cars presently operated by Pullman personnel will be operated by the Dining Car Department.

A new classification will be inaugurated, that of "parlor car attendant", at basic rate of $317.96 per 205 hour month.

Assignments will be taken from waiters' seniority roster in so far as possible, provided he has the necessary qualifications.

Applications for these positions must be made in writing and received in this office prior to 10:00 a.m. April 16, 1956, for consideration. Applications will be thoroughly screened and the officers in charge of the Dining Car Department will be the sole judge as to fitness, ability, and other qualifications.

P. E. Griffith
Superintendent Dining Cars

PEG:mm

cc: Mr. James Mathews
Mr. Solomon Pleasant"

It will be noted from the agreement that Dining Car Employes Local 354 not only agreed to have its members perform the parlor car porters work for $50.60 less per month than was being received by the B. S. C. P. men doing the work, but also agreed that seniority would not be respected and that the railroad officials would be the sole judges as to fitness and ability. In addition to that, the basic dining car agreement on the Wabash (as we understand it) permitted the railroad to work these men the full 205 hours for a month's pay, instead of the average 180 hours being worked under the porters agreement.

When Vice President McNeal of the B. S. C. P. called at the office of General Chairman Mathews of the Dining Car Employes seeking an explanation for this unexpected and unwarranted raid on the B. S. C. P. jurisdiction, General Chairman Mathews told him that he had signed the agreement because he had been under pressure to do so from a few of the Wabash waiters. He went on to say that he would be up for re-election in 1956 for a three year term and had felt that his decision in this matter would have some effect on the voting of the Wabash part of his membership.

Mathews went on to say that realizing he had done wrong, he telephoned Vice President Richard Smith of the H. R. E. & B. (in charge of Dining Car Locals) at Chicago and told him what has happened. He said that Vice President Smith told him that he was wrong. Mathews further said that on account of his coming election, he had arranged with Vice President Smith to settle the dispute with the porters union in any manner he (Smith) saw fit.

Thereupon International President Randolph of the B. S. C. P. addressed a letter to Vice President Smith of the H. R. E. & B. calling the situation to his attention and asking for a conference on the matter. Vice President Smith replied that he was busy during that particular period but would confer with the porters union before the effective date of the agreement.

On May 10, 1956, Vice President McNeal of the B. S. C. P. talked at Chicago with Vice President Richard Smith of the H. R. E. & B. about this raid. Vice President Smith of the H. R. E. & B. stated frankly that the jurisdiction involved was clearly that of the porters union. He went on to say that General Chairman Mathews of the H. R. E. & B. misrepresented the facts when he told Vice President McNeal of the B. S. C. P. that he (Mathews) had asked Vice President Smith to settle the dispute in any manner he saw fit. Vice President Smith said that the truth of the matter was that the officers of Local 354 were bringing all possible pressure to bear on him in their effort to take the parlor car porters jobs under their agreement. He said that in view of this fact it would be best to ask International President Miller of the Hotel and Restaurant Employes to correct the situation. Vice President Smith promised to advise International President Miller that the jobs involved were clearly porters jobs and that they should be under the porters' agreement.

International President Randolph of the B. S. C. P. wrote International President Miller of the H. & R. #. & B. under date of May 25, 1956, calling the raid to his attention and requesting a conference on the matter. President Miller referred the matter back to Vice President Richard Smith of the Joint Council of Dining Car

Employes. Using one pretext or another, the H. & R. E. & B. avoided the conference requested by President Randolph until July 30, 1956, which was two days before waiters were to take over the porters jobs on the Wabash. At that time the H&RE&B representatives advised the B. S. C. P. that it was too late to do anything about the raid.

The H&RE&B waiters on the Wabash took over the work of parlor car porters on the Wabash on August 1, 1956, at a rate of pay $50.60 below that being paid porters under the B. S. C. P. agreement - and with the other sub-standard features previously described.

Copies of the exchange of correspondence between the parties to this dispute concerning this matter are attached hereto and identified as our exhibits No. 3 (a through j).

THE PENNSYLVANIA RAILROAD

For more than 50 years prior to 1957, the Parlor Car Porters and the Parlor-Lounge Car Porters on the Pennsylvania Railroad were a recognized and integral part of the craft and class of Sleeping Car, Club and Sleeping-Lounge Car Porters. The service during that period was handled by The Pullman Company under an agreement with the Pennsylvania Railroad.

Effective in 1957, the Pennsylvania Railroad cancelled its agreement with Pullman covering the operation of Parlor and Parlor-Lounge Cars. The Pennsylvania retained the B. S. C. P. members who had operated these cars for Pullman.

In order to protect its members, their rate of pay and their working conditions, the B. S. C. P. was forced by the dining car union (R. F. W.) to go through the expensive and time-consuming process of requesting the Mediation Board for a Determination of Class and Craft in order to again prove that these men should not be placed under the agreement between the Pennsylvania Railroad and its dining car employes. The Board upheld the position of the B. S. C. P. in this matter.

Later the Board conducted an election to determine if the men involved wanted to be represented by the B. S. C. P. or the dining car employes union. The B. S. C. P. won this election and thereafter proceeded to write an agreement with the Pennsylvania maintaining the rate of pay and working conditions.

The Pennsylvania dining car employes are the largest group of dining car employes in the nation. The H. & R. E. & B. lost the right to represent the Pennsylvania dining car employes some years ago to an independent organization known as the "Railroad Food Workers".

Following the B. S. C. P. victory in proving that the Parlor and Parlor-Lounge Car men on the Pennsylvania were a part of the craft of porters (rather than dining car employes), our winning an election and writing an agreement for them, the H&RE&B proceeded to mount an amazing campaign on the Pennsylvania Railroad. This astounding campaign was designed not to regain the right to represent the largest group of dining car employes in the nation (which the H&RE&B had lost) but to raid the small group of Parlor and Parlor-Lounge Car men represented by the B. S. C. P. and whom a U. S. government agency had officially declared were not a part of the class and craft of dining car employes!

This sustained campaign against the B. S. C. P. among B. S. C. P. members by the H. & R. E. & B. on the Pennsylvania culminated in the Mediation Board conducting an election in September and October of 1962, for the purpose of determining if the men involved wanted to continue being represented by the B. S. C. P. or change to the H. & R. E. & B. The B. S. C. P. won the election and continues to represent this group.

A reproduced copy of the official Mediation Board ballot and a bulletin issued by the H. R. E. & B. in this situation is attached hereto and identified as our Exhibit 4 (a) and (b).

It will be noted that this attempted raid on a group of our members, held by the U. S. government not to be a part of the class and craft of dining car employes, occurred [redacted] after the effective date of Article XXI of the AFL-CIO Constitution.

NEW YORK CENTRAL RAILROAD

For more than 60 years prior to July 1, 1958 the sleeping car porters and club car attendants working on the sleeping cars and the sleeper-lounge cars of the New York Central railroad were a recognized part of the craft and class of sleeping car porters. Prior to that time (July, 1958) all sleeping car equipment in service on the New York Central was under the supervision and control of The Pullman Company and manned by its employes. Since 1935, the sleeping car porters and sleeper-lounge attendants on the New York Central had been represented by the B. S. C. P.

Effective July 1, 1958, the New York Central severed its operational agreement with The Pullman Company and took over the operation of all sleeping car equipment running on its lines. On the same date the approximately 500 individuals employed in the operation of the equipment became employes of the New York Central Railroad.

On December 23, 1941, the H&RE&B formally recognized that the porter service and the beverage and food service on sleeper-lounge and parlor-lounge cars was a part of a different representation and bargaining unit and that such services did not properly come under its jurisdiction by signing with the New York Central System an agreement reading as follows:

> "1. (a) Both parties to this agreement recognize that in line with past practice, food and/or beverages served by Pullman employes from Pullman cars does not infringe upon any rights of the railroad company's employes under the rules agreement or otherwise."

Despite the fact that the H&RE&B had entered into the foregoing agreement in 1941, immediately upon learning that the New York Central was taking over the operation of the sleeping car equipment, its Local 370 began an all out campaign to get the sleeper-lounge attendants (members of the BSCP) under its agreement. (In passing, we wish to point out that on the New York Central the H&RE&B had already violated the jurisdiction of the B. S. C. P. by placing under its New York Central agreement the Train Porters, Coach Porters, Lounge and Parlor Car Porters on that railroad.)

Apparently because it knew it would be able to hire sleeper-lounge attendants at a lower rate of pay under an agreement with the H&RE&B., the New York Central agreed to and did enter into an agreement with the H&RE&B on June 19, 1958, (eleven days before the men were actually hired) the principal provisions of which were:

(a) Amending the scope rule of the existing H&RE&B agreement by the addition of a new classification to be known as "Sleeping -Lounge Car Attendants",

(b) Setting up an additional seniority class for the new group in the general class of waiters, and

(c) Providing for a lower rate of pay than the men were receiving under the B. S. C. P. agreement.

That the parties to this June, 1958 agreement (H&RE&B and the New York Central) knew they were wrong in placing these 80 sleeper-lounge attendants under a dining car employes agreement is clearly demonstrated by the fact that they added a clause to the agreement reading as follows:

> "It is further agreed that if a determination should be made under the Railway Labor Act, as amended, that sleeping-lounge car attendant positions referred to in this Agreement belong to another class or craft, then the unions signatory hereto agree to be bound by such determination

> *with respect to said sleeping-lounge car attendant positions, provided however that with respect to the proceeding which might result in the afore-said determination, the carrier specifically recognizes and agrees that nothing contained in this Paragraph II shall prejudice the Organization's right or freedom to assert any defense or position it may desire."*

The B.S.C.P. learned of this "back door" agreement when the New York Central took over the equipment on July 1, 1958. This raid by the H&RE&B was the direct cause of the B. S. C. P. having to spend many thousands of dollars during the next two years, and afterwards. Because of this raid and the subsequent vicious attack by the H&RE&B, the approximately 500 men involved were subjected to sub-standard wages (about $50 less per month) and sub-standard working conditions for a period of about 2 years. This is the time it took the B. S. C. P. to: (a) file for and get a Determination of Class and Craft from the Mediation Board certifying (again) that Sleeper-Lounge Attendants were a proper part of the bargaining unit of Sleeping Car Porters. See our Exhibit 5 (K). This took from July 15, 1958 to April 3, 1959; (b) Arrange for and win a Mediation Board election to secure the right to represent the men, while under constant, vicious and scandalous attack from the H&RE&B and, (c) forcing a decent agreement and restoration of the wage cut from the tough New York Central.

Because it would be virtually impossible for the Trade Unionists who will review this record to believe that any union in the AFL-CIO would stoop to the use of methods used by the HRE&B against the B. S. C. P. in this situation, we have reproduced and are attaching hereto copies of a few of the many written documents they distributed to our members on the New York Central and several other railroads. These are identified as our Exhibits 5. (a) through (j).

It will be noted that in addition too besmirching and trying to destroy the reputation of our International President and claiming that the B. S. C. P. is not a part of the regular, recognized and respected labor movement, the HRE&B urged our members to enter into lawsuits against us and offered to send our members to their lawyers for that purpose. (See exhibit 5 (e).

Such a law suit was filed against us. One of these suits was not disposed of by the United States District Court, Southern District of New York until May 4, 1964. A copy of the Court's opinion is attached hereto and identified as our Exhibit 5 (j).

MISSOURI PACIFIC RAILROAD

Prior to the 1938 A. F. of L. Convention, Train Porters employed by the Missouri Pacific Railroad were represented by a Federal Chartered Local of the A. F. of L. When the jurisdiction of the B. S. C. P. was extended to cover porters, attendants, etc., employed on coaches in 1938, the A. F. of L. ordered these employes to become a part of the B. S. C. P.

At that time their rate of pay was $110 per 240 hour month. (45.8 cents per hour). Through years of struggle, the B. S. C. P. had suceeded by 1960 in improving the wages and conditions of employment of this group of workers to the extent that they were being paid $513.14 per 5500 mile month, or $ .093298 per mile. The average schedule of the trains involved was 60 miles per hour. Thus, the average hourly rate (including preparatory and release time) was approximately $5.00 per hour.

In 1961, the Missouri Pacific consolidated a number of their trains. This eliminated a number of crews. However, the larger consolidated trains needed more than one porter employe to perform the usual work of porters on coaches. Instead of assigning additional men from the Train Porters' roster, the railroad accepted an offer from Local 354, H.R.E.&B., to have waiters perform the additional porters work for considerably less pay than porters were being paid. They thereupon assigned men from the waiters' roster to perform the work of loading and unloading passengers and their baggage on and from coaches, cleaning coaches and rest rooms enroute, adjusting air-conditioning, heat and lights; handling pillows and hat checks, calling stations, transferring passengers and bags from car to car and performing similar duties under the direct supervision of the Train Conductors. If and when the "need" arises, these men (under the new classification of "coach attendants") are required to sell sandwiches and beverages in the coaches, in addition to their porter work.

Even though the negotiated rate for porter work on this property was common knowledge, yet H. & R. E. & B. Local No. 354 agreed for their members to perform all the work of porters plus some traditional waiter's work at the rate of $412.30 per 205 hour month or $2.01 per hour which was considerably less than one-half of the hourly earnings of porters under the BSCP agreement on that same property. Claims were filed by the BSCP. They were not successful because of technicalities raised by the railroad and the H&RE&B. (Copies of the BSCP agreement and claims are available for examination).

CHICAGO, BURLINGTON AND QUINCY RAILROAD

The Brotherhood of Sleeping Car Porters, Train, Chair Car, Coach Porters and Attendants was certified by the National Mediation Board to represent the chair car porters employed by the C. B. & Q. on September 13, 1939.

In the process of negotiating the initial agreement the BSCP learned that there had been established on one or two small trains a practice of a waiter getting out at stations to load passengers on the coach and going back to assist passengers off the train. Between stops these waiters spent their time in the dining car. The number of such men was very small. However, the BSCP during the initial negotiations sought to stop the practice.

After considerable controversy and passage of time the B. S. C. P. succeeded in writing an agreement covering all chair car porter work on the C. B. & Q., except that small amount of work being done on these one or two small trains by waiters.

Several years later, however, the C. B. & Q. started putting on what they called "streamlined trains" and through an arrangement with the Dining Car Employes Union, they placed waiters on the coaches to perform the same work as had been performed by chair car porters under the B. S. C. P. agreement at a rate of pay which was and is $21.45

lower than the B. S. C. P. rate.

The scope rule of the agreements between the C. B. & Q. and the dining car employes unions were changed from time to time to show new hyphenated combination porter jobs. As fast as new trains were put on, waiters were placed on jobs formerly held by chair car porters.

The H. & R. E. & B. (as well as another group which represented dining car employes for a while) gladly went along with this tearing down of standards.

The Brotherhood of Sleeping Car Porters, carried case after case involving this displacement of our members to the National Railroad Adjustment Board. With both the railroad and the dining car employes union opposing us, we lost. We finally concluded that in view of the working understanding between the railroad and the dining car employes union, it seemed inevitable that the craft of chair car porters would be eliminated on the C. B. & Q. For that reason, the B. S. C. P. reluctantly advised its members on the C. B. & Q. to apply for work in the new classifications created under the dining car employes agreements. Some of our displaced members succeeded in securing such work at the lesser rate of pay. Only six (6) men classified as chair car porters under the B. S. C. P. agreement remain on the C. B. & Q. at this time. There is not a single chair car porter left on the Ft. Worth and Denver part of the property, where we had a separate agreement.

In the meantime, waiters on the C. B. & Q. who resented being forced to perform the work of both porter and waiter for less pay than that provided for porter work alone in the B. S. C. P. agreement, started approaching the B. S. C. P., asking that we take over the representation of both groups in order to protect both waiters and porters. For several years the B. S. C. P. held to the position that even though the H. & R. E. & B. had continuously and seriously invaded our jurisdiction, the B. S. C. P. would respect their jurisdiction.

Finally, however, other railroads began using the precedents set on the C. B. & Q. in efforts to displace porters under our other agreements. Pointing to the H. &. R. E. and B. agreement on the C. B. & Q. system, they argued that the craft of chair car porter or attendant as it had been known was a thing of the past. An examination of the H. & R. E. & B. agreement on that property convinced us of the danger of the coming validity of that argument. This agreement already covered seven (7) different classifications of porter jobs. Efforts to get the H. & R. #. & B. to stop this raiding failed, repeatedly.

The B. S. C. P., in order to try and stop the trend of waiters being forced to take over and perform the work of porters, reluctantly decided to accept the C. B. & Q. dining car-porter group as part of our organization. This was accomplished through a Mediation Board election in 1960. Attached hereto and identified as our exhibit #6 (a) and (b) are a copy of page 1 of the official "Notice of Election" and official ballot posted by the Mediation Board on the C. B. & Q. on August 22, 1960. It will be noted that of the 15 classifications of "Dining Car Employes" involved, about one-half of the titles show that the work involved was porters' work. Thus, *the B. S. C. P. had every right and an actual obligation to participate in this election....which it won handily.*

THE LONG ISLAND RAILROAD

In 1962, the Long Island Railroad instituted service requiring hiring of a force of Club Car Porters and Attendants.

The National Mediation Board, under the Railway Labor Act, has the exclusive right and duty to determine the class and craft of railroad workers. This Board, in cases on the Pennsylvania, New York Central and New Haven, decided prior to 1962, had held that Club Car Porters and Attendants are not a proper part of the class and craft of dining car employes and that they are a part of the craft of porters.

Despite the foregoing fact, of which they were fully aware, the H. & R. E. & B. entered into the Long Island situation and carried on an extensive and bitter campaign against the B. S. C. P. to gain representation over this group of porters.

In August of 1962, the National Mediation Board conducted an election to determine which organization would represent these employes. As a result of the interference of the H. R. E. & B. in this situation, a third organization (the B.R.T.) won this election.

A copy of the official Mediation Board ballot in this election has been reproduced and attached hereto and is identified as our Exhibit (7).

Case No. 64-64

UNWARRANTED AND MALICIOUS CRITICISM OF B. S. C. P BY H. R. E. & B. BECAUSE THE BSCP REDUCED THE HOURS OF WORK OF ITS MEMBERS FROM 48 HOURS TO 40 HOURS PER WEEK, WITH INCREASES IN TAKE-HOME PAY.

All railroad workers, with the exception of the so-called "on-train service crafts" secured the benefits of the 40 hour week in 1948. The largest group, by far, of on-train service employes is the craft of dining car employes, all of whom are now working under agreements calling for a 205 hour month or 48 hour week.

From time to time since 1948, the B. S. C. P. has requested the Joint Council of Dining Car Employes, H. R. E. & B., to join in a concerted effort with the B. S. C. P. and other on-train service employes to reduce the work week to 40 hours. Over the years, the H. R. E. & B. dining car employes leaders have used one excuse or another to avoid entering into a struggle to reduce the hours of work from 48 hours per week to 40 hours per week.

In 1961, the BSCP, after holding meetings on the subject in all of its Locals in the United States and Canada; decided that the fight to reduce the hours of work of on-train service employes had to be made, with or without the H. R. E. & B. In these meetings, by an average majority of better than 99%, the B. S. C. P. membership voted to do two things. First, if called upon, to strike and to stay out as long as necessary to obtain a 40 hour week. Second, to pay in special assessments whatever the International Executive Board decided was necessary to finance the fight and to begin building a "fight fund" by immediately paying in $25 per man. Notice were served on railroads employing our members on sleepers and sleeper-lounge cars on March 8, 1962.

Vice President Richard Smith of the HRE&B Joint Council of Dining Car Employes attended some of the public hearings held by the Presidential Emergency Board appointed by Pres. Kennedy. He heard the Pullman Company and the railroads in these hearings using the 48 hour week being worked by dining car employes as an excuse for not granting the porters a 40 hour week.

Smith congratulated the officers of the BSCP for the fight they were making. He voluntarily gave us a statement to be introduced in the hearings. This statement set forth the position that the HRE&B would soon be fighting for shorter hours for its dining car employe members.

When asked why the HRE&B failed to join the BSCP in the fight to reduce hours of work, Vice President Smith told BSCP International President Randolph and Vice President McNeal that Chairman Leighty of the Railway Labor Executive Association had told him that a fight such as the one we were engaged in would cost about $150,000. Smith went on to say that the dining car locals were practically broke and that he did not believe that dining car employes would pay a $25 per man assessment as BSCP members did to finance such a fight. He added that because the dining car end of the HRE&B is a dificit operation, year after year, "We are simply afraid to ask our International Union to put up that kind of money for us."

With the cooperation of the AFL-CIO Executive Council, the Railway Labor Executive Association and the help of individuals such as President Meany and Vice President George Harrison of the A. F. L.-

C. I. O. who issued public statements in our behalf, the BSCP was finally able, after turning down a recommendation of a Presidential Board, to beat down the organized opposition of the railroads and secured agreements providing for a 40 hour week, increases in take-home pay, retroactive pay and job protection in take-overs.

This was, without a doubt, a tremendous victory for organized labor, The BSCP received the congratulations of the President of the United States and practically all of organized labor.

However, the HRE&B, almost immediately, mounted a nation-wide campaign to discredit the new agreements and International President Randolph. This campaign, led by Vice President Smith of the HRE&B, features such irresponsible assertions as (a) "porters and dining car employes did not need to reduce hours of work from 48 hours per week to 40"; (b) "the reduction in hours has caused B. S. C. P. members to lose jobs" (a rather silly lie); (c) that the BSCP exercised "a stinky legal maneuver" in asking our membership to pay a special $25 assessment to finance the fight to reduce hours and; (d) that our Pullman agreement (which has been pointed to as a model for railroad service workers) is "a sucker arrangement for porters" and was the result of the "stupidity" of BSCP leaders. (See our Exhibits 8 & 9). Bulletins of this type have been and are being passed out across the nation, without discrimination, to both dining car employes and porters.

PUBLIC RECORD OF H. R. E. & B. RAIDING THE JURISDICTION OF B. S. C. P.

As of the time of the filing of this complaint by the H. R. E. & B., the records of the Interstate Commerce Commission for Reporting Division 101, the Mediation Board and other sources of public information disclosed the the H. R. E. & B. actually represented train porters, coach porters, chair car attendants, club car porters or parlor car porters on the following railroads (among others):

Burlington - Rock Island
Florida East Coast
Seaboard Air Line
Grand Trunk Western
Great Northern
New York Central
Northern Pacific
New York, New Haven and Hartford
Missouri Pacific
Illinois Central
Kansas City Southern
Wabash
Union Pacific

It can be seen from the foregoing that the H. R. E. & B. will take and has taken anything in the B. S. C. P. jurisdiction that it can take--and that they bar no means, methods or holds in the efforts to raid.

Case No. 64-64

HISTORY OF CURRENT COMPLAINT BY THE H. R. E. & B. ON THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD.

The Parlor Car Porters and Lounge Car Porters on the New York, New Haven and Hartford Railroad were an integral part of the bargaining unit under the agreement of the Brotherhood of Sleeping Car Porters since 1935. They have been classified as porters for more than 50 years.

For a period of more than four (4) years prior to 1962, the H. R. E. & B. carried on a relentless and unscrupulous campaign against the B. S. C. P. among B. S. C. P. members on the N. Y., N. H. & H. railroad. Time after time efforts were made to raid and take over our membership on this property.

In February of 1960 (in violation of the AFL-CIO No Raiding Agreement) the H. R. E. & B. succeeded in arranging for a Mediation Board election to determine if our New Haven Members wanted to leave us and go to the H. R. E. & B. Copy of the Mediation Board ballot is attached hereto and identified as our Exhibit 10. One of the H. R. E. & B. circulars is identified as Exhibit II. The B. S. C. P. prevailed in that situation. However, the HRE&B campaign against the B. S. C. P. among our New Haven members was continued and intensified.

This continued and intensified campaign by the HRE&B resulted in the Mediation Board holding another election among our New Haven membership in May of 1962 (a considerable time after the adoption of Article XXI). Copies of that Mediation Board Ballot and certification are attached hereto and identified as Exhibits 12 (a, b and c). In the 1962 election the HRE&B secured a majority vote among the men. The H. R. E. & B. now represents men on the New Haven who are and have been a part of our jurisdiction for more than 50 years.

To give those interested in reviewing the record some idea of the kind of propaganda used by the HRE&B against the B. S. C. P. in the New Haven situation, we have reproduced and attached hereto one of their many leaflets distributed to our members. It is identified as our Exhibit 13.

After having openly, flagrantly and maliciously violated Article XXI of the AFL-CIO Constitution over a period of more than 4 years in raiding our membership on the New York, New Haven and Hartford Railroad, the H. R. E. & B. now has the amazing, astounding but childish gall to come crying to the AFL-CIO and this Honorable Umpire to stop us from accepting again our New Haven members who say they have [redacted] learned a bitter lesson during the two years they have been represented by the H. R. E. & B.

At the time we were being raided by the H. R. E. & B. on the N. Y., N. Y. & H. we did not come crying to the AFL-CIO because we felt that it was not the basic intent of Article XXI to force free American workers, who were compelled by Union shop agreement to pay dues, to continue supporting an organization to which a majority was opposed. We have not changed our thinking on this matter.

Case No. 64-64

It is the position of the B. S. C. P. that the facts we have set forth clearly establish that the H. R. E. & B. does not come here with clean hands and that their efforts to have the AFL-CIO penalize the B. S. C. P. are being made in the complete absence of good faith. Further, it is our position that in view of all of the facts herein involved, THE ACTION OF BSCP IS JUSTIFIED. ~~a decision against the B. S. C. P. or the assessment of a penalty upon the B. S. C. P. would be an abuse of the discretionary power vested in the Honorable Impartial Umpire.~~

ample justification for the action of the Brotherhood in the instant case has been established.

TDM:mr

THE FOLLOWING DOCUMENTS ARE PHOTOCOPIES.

THE ORIGINALS ARE NOT IN THE A. PHILIP RANDOLPH COLLECTION AT

THE LIBRARY OF CONGRESS

Hotel and Restaurant Employees
International Alliance and
Bartenders' International League
of America

C O P Y

Cincinnati, Ohio - Nov.5, 1945

To Members General Executive Board,

Greetings:

PROPOSITION #1109

At the meeting of the General Executive Board held in Buffalo, New York, in February of 1945, there came before the Board a matter of jurisdiction between Locals 41 of San Francisco, California, and 52 of Oakland, California, on one side, and dining car Locals 456 of Oakland, California, and 582 of Los Angeles, California, on the other side. This matter was numbered 18 on the agenda of the Board, and was taken up on Monday, February 20th, at the morning session (see page 9 of the April issue of the Journal). The matter was discussed at the sessions of Saturday, Feb. 24th and Monday, Feb. 26th, and final action was taken on Monday morning session as follows: "ALL FOOD, BEVERAGE, COACH AND PARLOR CAR SERVICE ON RAILROADS BE UNDER JURISDICTION OF DINING CAR LOCAL UNION, EXISTING BARTENDERS UNION AGREEMENTS EXCEPTED." (See pages 12 and 13 of the April issue of our journal.) Vice President Brown's protest at that time was over-ruled and above decision rendered.

It now appears that the matter does not work out satisfactorily, and there is grave danger that the few bartenders involved (8 at the most) are jeopardizing the operation of our dining car people on the Pacific Coast.

Negotiations have been going on between the two groups of Unions with Vice President McDonough taking a very active part to straighten out the mess, but with no result. Vice President McDonough submitted an exhaustive report on the matter to this office, which is herewith reproduced in full for the information of the members of the Board. There will also be reproduced a letter from Vice President George E. Brown on the same matter.

On Friday evening I received a long distance call from the dining car Local in Los Angeles, explaining the whole situation further, and stating that there is danger in delay, and that the General Executive Board ought to take up this matter at once, and reconsider its action of February 26, 1945, taken at Buffalo, New York, and give the jurisdiction of all THESE PEOPLE, INCLUDING THE BARTENDERS, NOW HELD BY 41 to them, where it rightfully belongs.

In view of the seriousness of the situation, and the danger it contains, I would appreciate it if you hwould give this matter your immediate attention, and return your vote to this office at once.

TO RESCIND ACTION TAKEN AT BUFFALO ON FEBRUARY 26, 1945, and to give jurisdiction over Bartenders on the Southern Pacific Railroad

EXHIBIT 1

[illegible]

[illegible]

[illegible]
[illegible]
[illegible]

Robert F. Cole, Secretary

In the matter of REPRESENTATION OF EMPLOYEES of the CHICAGO AND NORTH WESTERN RAILWAY COMPANY Parlor Car, Club Car and Coach Porters	CASE NO. R-516 Certification April 8, 1939

The services of the National Mediation Board were invoked by the Brotherhood of Sleeping Car Porters to settle a dispute as to who may properly represent parlor car, club car and coach porters employed by the Chicago and North Western Railway Company, as provided by Section 2, Ninth, of the Railway Labor Act.

The Board assigned Mediator John F. Murray to investigate, and after finding that a dispute existed among the employees in question directed him to take a secret ballot to determine their choice, using as eligible list agreed to by representatives of the contesting organizations.

Following are the results of the election as reported by the Mediator and attested to by representatives of the contesting organizations who acted as observers:

Number of Employees voting for contesting organizations:

	For Brotherhood of Sleeping Car Porters	For the Porters Industrial Organization of the Chicago & North Western Railway Co.	Void ballots	Number of employees eligible to vote
Parlor Car, Club Car and Coach Porters	42	8	1	61

On the basis of the investigation and report of election the National Mediation Board hereby certifies that the Brotherhood of Sleeping Car Porters has been duly designated and authorized to represent, for purposes of the Railway Labor Act the parlor car, club car and coach porters employed by the Chicago and North Western Railway Company.

By order of the NATIONAL MEDIATION BOARD.

Robert F. Cole

(SEAL)

Secretary

Exhibit 2 (a)

CHICAGO AND NORTH WESTERN
RAILWAY COMPANY

AGREEMENT

between

CHICAGO AND NORTH WESTERN
RAILWAY COMPANY

and

BROTHERHOOD OF SLEEPING CAR PORTERS

governing

Hours of Service and Working Conditions

Parlor and Buffet Car Porters

Effective January 1, 1940.

Exhibit 2 (b)

April 10, 1956

Mr. Richard W. Smith
Joint Council of Dining Car Employees
3806 South Michigan Avenue
Chicago 15, Illinois

Dear Brother Smith:

In view of the proposed transfer of parlor cars now under the operation of the Pullman Company on the Wabash Railroad to the Management of the Wabash Railroad, effective August 1, 1956, which is of interest and concern to the present porter personnel operating the said parlor cars, represented by the Brotherhood of Sleeping Car Porters, I want to suggest that a conference be held with you and any representative you may suggest of the St. Louis Dining Car Employees Local for the purpose of discussing the aforementioned question.

I will be pleased to hear from you on this matter at your earliest convenience.

With cordial good wishes, I am

Fraternally yours,

A. Philip Randolph
International President

APR/b

EXHIBIT 3 (a)

[illegible] 7-4122 7-4124

LOCAL NO. 495

DINING CAR EMPLOYEES UNION

AFFILIATED WITH THE
AMERICAN FEDERATION OF LABOR AND
HOTEL AND RESTAURANT INT. UNION

2007 ELEVENTH STREET N W
WASHINGTON 1, D. C.

[illegible]
PRESIDENT AND
GENERAL CHAIRMAN

[illegible]
FINANCIAL
SEC'Y TREASURER

April 16, 1956

Mr. A. Phillip Randolph, President
Brotherhood Sleeping Car Porters
217 West 125 Street, Room 301
New York 27, New York

Dear Sir and Brother:

This will acknowledge your letter of April 10 regarding the parlor car situation on the Wabash Railroad.

Because of many commitments I have currently, I am unable to determine just when I can set a date for conference on this matter, but I will certainly be able to meet with you or others of your organization in sufficient time to give this matter proper consideration before transfere is made.

Fraternally,

Richard W. Smith

Richard W. Smith
Vice-President Joint Council

RWS:ebj

APR 17 REC'D

(Exhibit 3 (b))

EXHIBIT 3 (c) Pg.1

May 25, 1956

Mr. Ed. S. Miller, President
Hotel and Restaurant Employees and
Bartenders International Union
525 Walnut Street
Cincinnati 2, Ohio

Dear President Miller:

May I inform you of a development in connection with the operation of parlor cars on the Wabash Railroad which involves your organization, the Hotel and Restaurant Employees and Bartenders International Union and the Brotherhood of Sleeping Car Porters.

The reason for this involvement of the two organizations is that on August 1, 1956 the Wabash Railroad plans to take over the parlor cars formerly operated by the Pullman Company for operation under the Wabash management. Since these parlor cars have been and are now manned by porters who are members of the Brotherhood of Sleeping Car Porters and since Local 354 of St. Louis of your organization has negotiated a contract for the operation of the parlor cars by members of that local, a question of jurisdiction has arisen.

I am sure you will agree that this is strictly porters' work and is, therefore, under the jurisdiction of the Brotherhood of Sleeping Car Porters, granted by the American Federation of Labor twenty years, more or less, ago. Moreover, these cars have been operated by Pullman porters for thirty-four years; since the Wabash entered into an agreement with the Pullman Company around 1922.

In January of this year, the Wabash Railroad Company served notice on the Pullman Company that they would take over the operation of their own Pullman cars beginning, as I aforementioned, August 1, 1956.

EXHIBIT 3 (c) Pg. 1

EXHIBIT 3 (c) Pg. 2

Now, for a number of years the Brotherhood of Sleeping Car Porters has had an agreement with the Wabash Railroad Company covering train porters whose duties are loading and unloading passengers, keeping the cars clean, attending to the heating and ventilation and kindred duties. These men are assigned to coaches on the same trains with the parlor cars. Their duties are practically the same as the duties of the Pullman porters working under the Pullman agreement on the parlor cars. Their current rate of pay is $338.96 per month. The Pullman porters assigned to these parlor cars at this time are paid $336.06 per month.

It will be of interest for you to know that, following notice of cancellation of contract with the Pullman Company, the Wabash Railroad Company invited Local 354 to come in and sign an agreement under which dining car waiters would do the work which has been performed, as afore-indicated, for thirty-four years by porters who are members of our organization. The duties will not be changed in any respect.

I am, herewith, enclosing copy of agreement entered into. It will be noted that the local Dining Car Union agreed to have its men perform the work for $317.96 . This is $18.10 less than the amount received by Pullman porters for doing the same work. It will also be noted that the dining car men have also agreed that seniority will not be a factor in the assignment of men to these cars. They have further agreed that the railroad officer in charge is to be the sole judge as to fitness and ability.

Knowing of the militant and aggressive history of your great organization, I am sure you would not be in accord with the violation of the jurisdiction of a sister organization by placing dining car employees in jobs formerly manned, and at present manned, by porters, especially when the said dining car employees will receive $18.10 less per month for the performance of the same work now performed by porters.

May I also add that each of these parlor cars is equipped with a bed in the drawing rooms which are made down occasionally for the use of sick passengers.

Finally, let me reiterate that the work on these cars is clearly and wholly within the jurisdiction of the Brotherhood of Sleeping Car Porters, granted by the American Federation of Labor.

EXHIBIT 3 (c) Pg. 2

I am confident that you will agree that there is absolutely no basis for the dining car local to accept jurisdiction and agree for dining car employees to take the work of porters under unfavorable working conditions and for considerably less pay.

May I hope that the campaign you are making for the organization of the hotels in Miami is constantly bearing fruit since it means so much to the labor movement.

Fraternally yours,

A. Philip Randolph
International President

Enc.
cc: Mr. Richard W. Smith
Vice President Joint Council
Dining Car Employees Union

EXHIBIT 3 (c) Pg. 3

AFFILIATIONS: AFL-CIO — CANADIAN LABOR CONGRESS — RAILWAY LABOR EXECUTIVES

HOTEL AND RESTAURANT EMPLOYEES AND BARTENDERS INTERNATIONAL UNION

525 WALNUT STREET CINCINNATI 2, OHIO

General Office Telephones: PArkway 1-8164-65-66

Office of the
GENERAL PRESIDENT

June 13, 1956

A. Philip Randolph, President
BROTHERHOOD OF SLEEPING CAR PORTERS
217 West 125th Street, Room 301
New York 27, New York

Dear Brother Randolph:

Through an oversight we find that we failed to answer your letter of May 25th dealing with the Parlor Car situation on the Wabash Railroad involving our affiliate Local 354.

We want you to know that we immediately contacted our Representative, Brother Richard Smith, and the officials of our Dining Car Local 354. We are taking the entire situation under advisement and will do our best to work out a mutual solution to the problem.

Fraternally yours,

Ed. S. Miller

General President

JUN 15 REC'D

ESM:emb:2

CC: Local 354
and
Richard Smith

(Exhibit 3 (d)

EXHIBIT 3 (e) Pg. 1

A. PHILIP RANDOLPH
International President

MILTON P. WEBSTER
rst International Vice-President

BENNIE SMITH
2nd International Vice-President

BROTHERHOOD of SLEEPING CAR PORTERS

ASHLEY L. TOTTEN
International Secretary-Treasurer

C. L. DELLUMS
3rd International Vice-President

T. D. McNEAL
4th International Vice-President

THOMAS PATTERSON
Eastern Zone Supervisor

Train, Chair Car, Coach Porters and Attendants
AN INTERNATIONAL UNION
Affiliated with the A. F. of L.

217 WEST 125th STREET (Room 301)
NEW YORK 27, N. Y.
MO 2-5080-1
440

June 14, 1956

Mr. Ed. S. Miller, President
Hotel and Restaurant Employees and
Bartenders International Union
525 Walnut Street
Cincinnati 2, Ohio

Dear Sir and Brother:

Inasmuch as it is evident that there is conflict of jurisdiction between the Brotherhood of Sleeping Car Porters and the Hotel and Restaurant Employees and Bartenders International Union resulting from the transference of cars from the Pullman Company to the Wabash Railroad, effective August 1, 1956, the said cars now manned by personnel who are members of the Brotherhood of Sleeping Car Porters but who may be displaced by dining car employes of Local 354 of your international union, I want to request a conference with you for the purpose of discussing this question with a view to finding a fair solution.

As you may know, jurisdiction over Pullman employes represented by the Brotherhood of Sleeping Car Porters, and also train porters, was given the Brotherhood of Sleeping Car Porters by the American Federation of Labor many years ago.

Another point of conflict in jurisdiction may obtain upon the transfer of the parlor cars from the Pullman Company to the New York, New Haven and Hartford Railroad, effective October 1, 1956, although these employes have been represented by the Brotherhood of Sleeping Car Porters since 1935 and they have been construed as a part of one bargaining unit.

Inasmuch as a contract between the Wabash Railroad and your local union in St. Louis has been signed, for the manning of these parlor cars on the Wabash by dining car employes, beginning August 1, 1956. I will appreciate your setting a date for conference at your earliest convenience, in order that we may explore this question of conflict in jurisdiction between your and my organization.

I will be glad to come out to Cincinnati to talk over this matter with you unless you prefer a more central place, such as Washington, D. C.

With cordial good wishes, I am

Fraternally yours,

A. Philip Randolph
International President

cc:

Mr. M. P. Webster, First Intl. Vice President
Brotherhood of Sleeping Car Porters

Mr. T. D. McNeal, Intl. Vice President
Brotherhood of Sleeping Car Porters

Mr. Richard Smith, Intl. Vice President
Joint Council Dining Car Employes

EXHIBIT 3 (e) Pg. 2

EXHIBIT 3 (f)

A. PHILIP RANDOLPH
International President

MILTON P. WEBSTER
1st International Vice-President

BENNIE SMITH
2nd International Vice-President

BROTHERHOOD of SLEEPING CAR PORTERS

Train, Chair Car, Coach Porters and Attendants
AN INTERNATIONAL UNION
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217 WEST 125th STREET (Room 301)
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International Secretary-Treasurer

C. L. DELLUMS
3rd International Vice-President

T. D. McNEAL
4th International Vice-President

THOMAS PATTERSON
Eastern Zone Supervisor

June 18, 1956

Mr. Ed. S. Miller, General President
Hotel and Restaurant Employees and
Bartenders International Union
525 Walnut Street
Cincinnati 2, Ohio

Dear Brother Miller:

Thank you for your letter of June 13, 1956 concerning my letter to you about the problem of the Parlor Car situation on the Wabash Railroad involving your affiliate Local 354.

No doubt, my recent letter to you crossed yours to me.

Again, may I suggest that I would appreciate having a talk with you at your convenience about this matter.

With cordial good wishes, I am

Fraternally yours,

A. Philip Randolph
International President

APR/b

EXHIBIT 3 (f)

AFFILIATIONS: AFL-CIO — CANADIAN LABOR CONGRESS — RAILWAY LABOR EXECUTIVES

HOTEL AND RESTAURANT EMPLOYEES
AND BARTENDERS INTERNATIONAL UNION

525 WALNUT STREET CINCINNATI 2, OHIO

General Office Telephones: PArkway 1-8164-65-66

Office of the
GENERAL PRESIDENT

15-85

June 19, 1956.

Mr. A. Philip Randolph, Intl. President
Brotherhood of Sleeping Car Porters,
217 West 125th Street, Room 301
New York 27, New York.

Dear Sir and Brother:

We acknowledge your letter of June 14th in regards to the jurisdiction question arising on the Wabash Railroad and the New Haven and Hartford Railroad.

We are delegating our International Vice President for the Dining Cars, Brother Richard Smith, to meet with you in regards to this situation.

Brother Smith, as you know, represents this office in handling most of the matters pertaining to the membership of our International Union employed on the nation's railroads. He is thoroughly familiar with this situation and will be able to discuss it with you.

Fraternally yours,

Ed S. Miller

General President

ESM:ES:2

CC: Richard Smith, V.P.

JUN 22 PM

(Exhibit 3 ([illegible]))

EXHIBIT 3 (h)

A. PHILIP RANDOLPH
International President

MILTON P. WEBSTER
1st International Vice-President

BENNIE SMITH
2nd International Vice-President

BROTHERHOOD of SLEEPING CAR PORTERS

Train, Chair Car, Coach Porters and Attendants
AN INTERNATIONAL UNION
Affiliated with the A. F. of L.

217 WEST 125th STREET (Room 301)
NEW YORK 27, N. Y.
MO 2-5080-1
[illegible]440

ASHLEY L. TOTTEN
International Secretary-Treasurer

C. L. DELLUMS
3rd International Vice-President

T. D. McNEAL
4th International Vice-President

THOMAS PATTERSON
Eastern Zone Supervisor

COPY

June 27, 1956

Mr. Ed. S. Miller, General President
Hotel and Restaurant Employees and
Bartenders International Union
525 Walnut Street
Cincinnati 2, Ohio

Dear Sir and Brother:

Thank you for your letter of June 19, 1956 informing me that you have designated International Vice President, Brother Richard Smith, to handle the question of jurisdiction involving the operation of parlor cars on the Wabash Railroad and the New York, New Haven and Hartford Railroad.

I will contact Brother Smith concerning this matter.

Fraternally yours,

A. Philip Randolph
International President

APR/b
cc: Richard Smith

EXHIBIT 3 (h)

EXHIBIT 3 (i)

A. PHILIP RANDOLPH
International President

MILTON P. WEBSTER
1 International Vice-President

BENNIE SMITH
2nd International Vice-President

BROTHERHOOD of SLEEPING CAR PORTERS

Train, Chair Car, Coach Porters and Attendants
AN INTERNATIONAL UNION
Affiliated with the A. F. of L.
217 WEST 125th STREET (Room 301)
NEW YORK 27, N. Y.
MO 2-5080-1

ASHLEY L. TOTTEN
International Secretary-Treasurer

C. L. DELLUMS
3rd International Vice-President

T. D. McNEAL
4th International Vice-President

THOMAS PATTERSON
Eastern Zone Supervisor

copy

June 27, 1956

Mr. Richard W. Smith, Vice President
Joint Council, Dining Car Employees
3806 South Michigan Avenue
Chicago 15, Illinois

Dear Brother Smith:

Find enclosed copy of letter that is self-explanatory.

Kindly let me know when it will be convenient for you to meet with Brother M. P. Webster, Brother T. D. McNeal and myself, concerning the subject matter of the enclosed letter.

Fraternally yours,

A. Philip Randolph
International President

APR/b
CC: M. P. Webster
T. D. McNeal

Enclosure

EXHIBIT 3 (i)

EXHIBIT 3 (1)

A. PHILIP RANDOLPH
International President

MILTON P. WEBSTER
1 International Vice-President

BENNIE SMITH
2nd International Vice-President

BROTHERHOOD of SLEEPING CAR PORTERS

Train, Chair Car, Coach Porters and Attendants
AN INTERNATIONAL UNION
Affiliated with the A. F. of L.
217 WEST 125th STREET (Room 301)
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MO 2-5080-1

ASHLEY L. TOTTEN
International Secretary-Treasurer

C. L. DELLUMS
3rd International Vice-President

T. D. McNEAL
4th International Vice-President

THOMAS PATTERSON
Eastern Zone Supervisor

July 9, 1956

Mr. Richard W. Smith
Vice President
Joint Council Dining Car Employees
3806 South Michigan Avenue
Chicago 15, Illinois

Dear Sir and Brother:

Pursuant to our conversation over the telephone, today, July 9, relative to conference for the discussion of jurisdiction involved in the manning of cars transferred by the Pullman Company to the Wabash Railroad, effective August 1, 1956 and New York, New Haven and Hartford, effective October 1, 1956, may I say since you suggested that it will not be convenient for you and some of the Brothers interested in the question to have a conference in my office while you are out East, in attendance at the Railway Labor Executives' Association, I am glad that we can agree on July 30, as tentative date for the conference in Chicago, in your office if you desire it.

If you find it necessary to change this date, kindly let me know and every effort will be made to accommodate your convenience.

Fraternally yours,

A. Philip Randolph
International President

APR/b
cc: M. P. Webster
T. D. McNeal

EXHIBIT 3 (1)

EXHIBIT 4 (a)

R-3574

OFFICIAL BALLOT

PARLOR LOUNGE ATTENDANTS AND PARLOR CAR ATTENDANTS

Employes of

PENNSYLVANIA RAILROAD COMPANY

September 19, 1962 to October 2, 1962

A dispute exists among the abovenamed craft or class of employes as to who are the representatives of such employes designated and authorized in accordance with the requirements of the Railway Labor Act, and the National Mediation Board is taking a SECRET BALLOT in order to ascertain and to certify the name or names of organizations or individuals designated and authorized as representatives for purposes of the Act.

INSTRUCTIONS FOR VOTING

Mark an "X" in the square of your choice. Marks in more than one square make ballot void.

If you desire to be represented by:

BROTHERHOOD OF SLEEPING CAR PORTERS, AFL-CIO

Mark an "X" in this square -- ☐

If you desire to be represented by:

JOINT COUNCIL DINING CAR EMPLOYEES-HOTEL AND
RESTAURANT EMPLOYES AND BARTENDERS INT'L UNION, AFL-CIO

Mark an "X" in this square -- ☐

SAMPLE

If you desire to be represented by:

ANY OTHER ORGANIZATION OR INDIVIDUAL

Write name of such organization or individual on the line below,

____, AND

Mark an "X" in this square -- ☐

NOTICE

1. This is a SECRET BALLOT: Do not sign your name
2. Return this ballot in its entirety. Do not cut, mutilate or otherwise spoil it. If you do so, return ballot at once to the Mediator and obtain a new one.

EXHIBIT 4 (a)

EXHIBIT 4 (b)

Bulletin distributed to B. S. C. P. members on Pennsylvania June, 1962.

Merger
of the Baltimore & Ohio and Chesapeake & Ohio Railroads is assured to the degree that personnel, facilities and equipment are being exchanged while awaiting formal conclusion.

Job and Seniority Protection
for dining car employes involved are in jeopardy due to the failure of B. & O. employes to authorize signing a mutual agreement with the Carriers as is now in effect for other crafts. The new railroad will be the Chesapeake and Baltimore Transportation Company.

Merger
of the Pennsylvania and New York Central Railroads is being opposed by the standard rail unions. Hearings before the I.C.C. will begin August 20 at Washington, D. C. Stock holders of both Carriers have approved the formation of the Pennsylvania - New York Central Transportation Company. Tentative plans reveal a drastic reduction in service and jobs. The Foodworkers, in the meantime, continue to give aid and comfort to the Carrier by fighting the unions that are fighting the merger.

Certification
National Mediation Board
Case R-3539
Parlor Car - Lounge Attendants - Space Assigners
New Haven Railroad
6-7-62

Dining Car
New bulletin

Employes Eligible and Voting	Brotherhood Sleeping Car Porters	Joint Council - Local 370
59	27	32

The above employes who were not represented in the national settlement of June 5, 1962, will now get the wage increase and protective rules now that the employes voted to join Local 370.

Taxation Without Representation
appears to be the order for Penn Attendants and Burlington Dining Car Employes. The old deadline to pay $35.00 or be fired has been moved from July 1 to June 20, 1962. There is rumor another $50.00 may be levied. If so you must pay that also. You have no voice and no choice.

For the benefit of those who ask shall they pay? If you stay you must pay. That is the rule under the constitution of the Sleeping Car Porters.

The Trusteeship
now more than two years old for B. & O. dining car employes is in violation of the law. The move to get representation by a vote of the membership has failed.

The pending merger between the C. & O. and B. & O. carriers into a new Chesapeake & Baltimore Railroad Co. is of no interest to present officers. Seniority and job protection by a mutual agreement in event of consolidation is opposed. Why, is the question that needs an answer.

Leyton Weston
Leyton Weston
International Representative
HOTEL AND RESTAURANT EMPLOYEES & BARTENDERS INTERNATIONAL UNION

(McL Files)

EXHIBIT 4 (b)

EXHIBIT 5 (a)

JOINT COUNCIL DINING CAR EMPLOYEES

200 WEST 135th STREET, NEW YORK 30, N. Y.

AU. 3-3370

Mr L Gill

TO ALL NEW YORK CENTRAL PORTERS

Dear Sir and Brothers:

Do you want a good agreement, job security, militant and capable representation, a democratic union with trained officers, who are a part of the *Standard Railroad Unions?*

If so, sign a card and vote for the Joint Council of Dining Car Employees to represent you.

Here's what the Brotherhood, a political union did to the New Haven Parlor Car men.

The Penn and New Haven took over their parlor cars in 1956.

The Brotherhood promised equal pay rates, full seniority for former Pullman employees, a part in the negotiations, and their own representatives.

Nearly 2 years later, August 1, 1958, the Brotherhood signed an agreement for these parlor car workers.

We are informed that Webster negotiated that agreement. A. Philip Randolph's signature is signed to it.

The New Haven Parlor Car agreement would have been a bad agreement if signed 30 years ago. It's hard to believe that any labor representative would sign such an agreement today.

That agreement:

1. Provided a lower rate of pay for Penn and New Haven Parlor Car Employees than these same men had with the Pullman Company.
2. Placed all dining car employees ahead of Brotherhood members on Parlor Lounge Seniority Roster.
3. Rule 2-A-3 gives the Company the right to select employees for promotion. It reads, "Employees covered by this agreement will be given consideration for promotion as opportunity may offer."
4. The Company can disqualify a regular or extra man from a run, without charges or a hearing.
5. The Company can deny the senior man his bid, and that man must write for a chance to qualify in 5 days. The Company can give him a course of training, (without pay, of course) for 30 days. Meanwhile for 35 days a junior man has the job. Rule 4-A-4.
6. The Company can pick a regular or extra man for specials, special parties on their own, or at request of the special parties.
7. Rule 4-A-3 gives the Company the right to cut your time after 1 hour on a turn around.
8. Rule 4-A-4 under certain conditions gives the Company the right to hold you at away from home terminal for 24 hours without pay.
9. Rule 4-A-5 gives the Company the right to work extra employees on station duty over 4 hours and not pay them 8 hours.
10. Rule 4-A-9 gives the Company the right to call you for a hearing or as a witness and you get 1 hours pay for an hour and not over 3, no matter how long the Company keeps you.
11. Rule 4-A-13 gives the Company the right to hold you at away from home terminal when your line is interrupted or discontinued and pay you only 4 hours for each calendar day held away from home.
12. Rule 4-A-13 (c) gives the Company right to use regular men in extra service and reads, "The use of regularly assigned employees to perform extra service under Paragraphs (a) and (b) of this Rule (4-A-13) shall not be considered a violation of Rule 9-A-1 or of any other provision of this Agreement."
13. Rule 6 gives the Company the right to pull you out of service on suspicion. Paragraph 2 of 6-A-1
(a) reads, "When an offense has been committed an employee *suspected by the Management to be guilty thereof* may be held out of service pending a final determination of his case."
14. Rule 6 gives the Company the right to demand statements. A statement is a company effort to get you to convict yourself.
15. Rule 9 gives the Company the right to set up home terminals anywhere they please in order not to pay for deadheading.

Brothers, we could go on and on. This agreement stinks. We are told Webster negotiated it.

Do you want Webster to negotiate you an agreement like this?

Vote for the welfare of your family, your co-worker and yourself.

Sign cards for the Joint Council, a RAILROAD UNION.

Vote for the Joint Council, a RAILROAD UNION.

Joint Council Dining Car Employees
Representing 113 Class 1 Railroad
DUDLEY WASHINGTON
General Chairman
Local 370

CLASS OF SERVICE
This is a fast message unless its deferred character is indicated by the proper symbol.

WESTERN UNION
TELEGRAM

W. P. MARSHALL, PRESIDENT

1201

SYMBOLS
DL=Day Letter
NL=Night Letter
LT=International Letter Telegram

The filing time shown in the date line on domestic telegrams is STANDARD TIME at point of origin. Time of receipt is STANDARD TIME at point of destination

WASHINGTON DC MAY 22 402PME

A PHILIP RANDOLPH, INTL PRES
BROTHERHOOD SLEEPING CAR PORTERS=

RE CASE R-3342 REPRESENTATION OF SLEEPING CAR PORTERS AND SLEEPING LOUNGE CAR ATTENDANTS NYC. HOTEL & RESTAURANT EMPLOYEES HAVE FILED FORMAL OBJECTION TO CONDUCT OF ELECTION ALLEGING THAT SOME AUTHORIZATION CARDS PRESENTED BY YOUR ORGANIZATION TO THIS BOARD WERE SIGNED PRIOR TO DATE PERSONS INVOLVED WERE EMPLOYES OF CARRIER WHICH THEY CONTEND IS A VIOLATION OF THE RAILWAY LABOR ACT. PLEASE FURNISH YOUR STATEMENT AT EARLIEST POSSIBLE CONVENIENCE=

E C THOMPSON EXEC SECY NMB=

851A MAY 25TH.

REC'D

(Exhibit 5 (b))

THE COMPANY WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

LOCAL 370 | EXHIBIT [illegible] LOCAL 370

LOCAL 370-NEWS LETTER

NEW YORK CENTRAL PORTERS and ATTENDANTS
JANUARY 1960

DPR
File

HAPPY 1960 to you and your FAMILY

Can you pay your rent, buy food and clothing for yourself and family with pictures and publicity notices of your officers in newspapers and magazines?

CAN YOU SPEND BROKEN PROMISES? IF YOU CAN, YOU BELONG WITH THE BROTHERHOOD! YOU WERE PROMISED AN AGREEMENT WITHIN 30 DAYS, 600 DAYS AGO!

You can GO FORWARD with LOCALS 370 and 233 in 1960 - or

YOU CAN GO BACKWARDS WITH THE BROTHERHOOD!

LOCALS 233 and 370 will get WAGE INCREASES, LIFE INSURANCE, PAID HOLIDAYS, A BETTER VACATION AGREEMENT and BETTER HEALTH and WELFARE CONDITIONS FOR ALL OUR MEMBERS AND THEIR FAMILIES IN 1960!

THE CENTRAL HAS TOLD THE BROTHERHOOD THEY INTEND TO CUT YOUR PAY, FORCE YOU TO PAY FOR HEALTH and WELFARE, and NO WAGE INCREASES in 1960, and NO LIFE INSURANCE UNLESS YOU PAY FOR IT!

The Rock Island, the Colorado and Southern; the Fort Worth and Denver and the New Haven are giving the Brotherhood the same brush-off treatment!

LOCALS 233 and 370 are two locals of 879 locals of the Hotel and Restaurant Employees' International! Since 1945 when we became the 17 NON-OPERATING RAILROAD GROUP the Brotherhood would telephone our Joint Council, ask us for a copy of the wage increases or rules changes we had served on the railroads! The BROTHERHOOD WOULD THEN PRINT THE NEWS IN THE BLACK WORKER AS IF THEY WERE A PARTY TO THE NEGOTIATIONS, WOULD ASSESS YOU, FOR WAGE INCREASES THEY DID NOT PAY ONE PENNY TO GET!

The 17 Non-Ops are meeting in Chicago now on wage increases. Locals 233 and 370 are represented at these conferences'

THE BROTHERHOOD IS NOT REPRESENTED! AND HAS NEVER BEEN REPRESENTED AT THESE CONFERENCES!

The 17 Non-Ops HAVE SET UP A FIGHTING FUND OF $300,000, HAVE HIRED 5 LAWYERS AND 20 CERTIFIED ACCOUNTANTS!

LOCALS 370 and 233 ARE PAYING THEIR PART OF THE COST OF THESE NEGOTIATIONS. AGAIN THE BROTHERHOOD DOES NOT PAY ONE CENT! They go to the Pullman Company or the Railroads with their hats in their hands and beg for a stand-by agreement!

YOU CAN'T FIGHT A RAILROAD YOU HAVE TO BEG FAVORS FROM!

LOCALS 370 and 233 PAY THEIR WAY! WE DON'T ASK FAVORS OF ANY RAILROAD! WE DON'T GIVE FAVORS!

We believe that PHONEY ELECTION will be thrown out! That's the porters only chance to get INTO a real labor union'

The attendants can sue the Central and the Brotherhood if any of their rules, rates of pay or working conditions are taken away from them by those PHONEY CARDS!

It is our firm conviction that you will have an opportunity to vote for a REAL RAILROAD LABOR UNION IN 1960!

HAPPY NEW YEAR TO YOU AND YOURS!

FRATERNALLY YOURS,

PERCY GOODWYN,
PRESIDENT-LOCAL 370

DUDLEY WASHINGTON,
GENERAL CHAIRMAN-LOCAL 370

EXHIBIT 5(c)

IBIT 5 (d)

McB
File

LOCAL 370 FACTS'

TO NEW YORK CENTRAL PORTERS AND ATTENDANTS

One Year ago the Brotherhood promised you wage increases and shorter hours.

Last year you paid $95.00 in dues and assessments for BROKEN PROMISES!

A Section 6 Notice must be served on a railroad for wage increases or shorter hours. The Company must give a conference within 30 days. If the Company denies a Union's request the Union must petition the National Mediation Board within 10 days.

The Brotherhood said they served a Section 6 Notice on the Central last March!

WHAT HAPPENED?

The Penn and Central may merge this year! WHERE WILL YOU BE UNDER THE BROTHERHOOD? YOU CENTRAL MEN ARE WAY DOWN ON THE PENN ROSTER! THE BROTHERHOOD WILL BE GLAD TO GET RID OF YOU! YOU HAVE ONLY 4 YEARS SENIORITY ON THE CENTRAL ROSTER. THE BROTHERHOOD WILL MERGE THE ROSTERS! YOU WILL ALL BE IN THE STREET!

WHAT CAN LOCAL 370 DO FOR YOU?

Local 370 can and will fight for a proportionate share of the jobs! Also job protection and severance pay for you porters and attendants!

The Penn wanted to take over sleeping cars last October! The Pullman Conductors went to court. They asked the Brotherhood of Sleeping Car Porters to help them fight. THE BROTHERHOOD REFUSED! 50 PULLMAN CONDUCTORS SAVED 222 PORTERS THEIR JOBS, RATES OF PAY AND VACATION RIGHTS! Why did the Brotherhood refuse to fight? BECAUSE IN JULY 1962 THE BROTHERHOOD WENT TO PHILADELPHIA AND AGREED WITH THE PENN TO SUPPLY PORTERS AT A LOWER RATE OF PAY! THE BROTHERHOOD WANTED AUTHORIZATION CARDS, REINSTATEMENT FEES, DUES AND ASSESSMENTS! EVERY CHANGE OVER GIVES THE BROTHERHOOD MORE MONEY AND YOU LESS PROTECTION! ENOUGH SAID!

The only time you see a Brotherhood representative is when there is an election! Sign authorization cards for Local 370 and Brotherhood representatives will have a fish fry in Grand Central! You will stumble over several every train you take!

You were promised the wage increase 370 members got! YOU DID NOT GET IT!

The New Haven Parlor Car Porters voted for Local 370. They have their wage increase and back pay! YOU HAVE BROKEN PROMISES!

Local 370 is not in the same league with the Brotherhood on Civil Rights. The Brotherhood is not in our class on LABOR! YOU PAY DUES FOR LABOR REPRESENTATION! WHY NOT GET THE BEST IN THE LEAGUE!

SIGN A CARD FOR LOCAL 370 TODAY! YOUR FAMILY WILL THANK YOU LATER!

Fraternally yours,

Dudley Washington,
General Chairman.

Member: HOTEL - RESTAURANT EMPLOYES INT.
17 NON-OPERATING RAIL UNIONS

EXHIBIT 5 (d)

EXHIBIT 5 (e)

APR
File

LOCAL 370
JOINT COUNCIL DINING CAR EMPLOYEES

New York Central
SLEEPING CAR ATTENDANTS

Dear Sirs and Brothers:

Only slightly over 1/3 of the attendants in the New York area have signed up to sue the Brotherhood and the Central.

Your future is involved! CALL IN! WE WILL SEND YOU TO OUR LAWYER!

WE ARE GOING TO THE SUPREME COURT IF NECESSARY ON THAT PHONY ELECTION

THERE ARE TIMES WHEN YOU CAN DO SOMETHING FOR YOURSELF!

Those cars are DINING CARS. They belong to you. The more men who sign up to sue, the stronger your position will be in court.

May 29th, this Local and the Railroad Unions served notice on all railroads for all employes we represent, effective January 1, 1960:

10 days vacation for any employe with less than 5 years seniority who worked 90 days in 1959

15 days vacation after 5 years

20 days vacation after 10 years

9 PAID HOLIDAYS each year, and other fringe benefits

September 1, 1959 we served notice for amendment to Travelers Insurance

1. Your wife and children to get same hospital benefits as you
2. One years salary up to $5,000 life insurance paid for by the Company
3. 25¢ an hour increase in wages

The Brotherhood is not a party to either of these proposals. They are good boosters of themselves, but darned poor producers.

Look at the August 22, copy of LABOR!

See Page 20, October 1959 copy of CATERING INDUSTRY EMPLOYEE!

The Brotherhood has about 6,000 members. THE JOINT COUNCIL has 9,000 MEMBERS. The Brotherhood is not a chartered union, has no affiliations with any other Railroad group, in fact is a PULLMAN COMPANY UNION!

THE JOINT COUNCIL IS PART OF THE 17 NON-OP RAILROAD UNIONS, HAS A CHARTER FROM THE HOTEL AND RESTAURANT EMPLOYEES, WITH 450,000 MEMBERS, and MILLIONS OF DOLLARS!

The Brotherhood has the Central and Pullman Company on their side. WE HAVE OVER 1,000,000 UNION MEMBERS BEHIND US! THE BIG BATTLES OF THIS WAR ARE AHEAD! WE INTEND TO WIN THE FINAL BATTLE!

ASK THE BROTHERHOOD TO SHOW YOU THEIR CHARTER!

ASK THE BROTHERHOOD WHO WILL HELP THEM FIGHT THEIR FRIEND the CENTRAL!

MORE NEXT MONTH

FRATERNALLY YOURS,
LOCAL 370

EXHIBIT 5 (e)

DUDLEY WASHINGTON,
GENERAL CHAIRMAN.

EXHIBIT 5 (f)

Mcl file

LOCAL 370 NEW YORK CENTRAL PORTERS AND ATTENDANTS JULY 1961

Local 370 invites you to sign an authorization card for a real Railroad Labor Union.

THAT CARD WILL BE SECRET!

NEITHER THE CENTRAL OR THE BROTHERHOOD HAS A RIGHT TO SEE THAT CARD!

1. You sign your name!
2. You date the Card!
3. You give the card to one of your own Committee!

LOCAL 370 PROMISES YOU:

1. A DECENT AGREEMENT!
2. 4 DAYS OFF, OR MORE EACH MONTH!
3. DEMOCRATIC PROCEDURE: - NO AGREEMENTS SIGNED FOR PORTERS AND ATTENDANTS UNTIL THE PORTERS AND ATTENDANTS ONLY AGREE IN MEETINGS ASSEMBLED, TO ACCEPT SAID AGREEMENT!
4. FREE ELECTIONS CONDUCTED BY THE MEMBERSHIP WHERE ANY PORTER or ATTENDANT WILL HAVE THE RIGHT TO RUN FOR, AND BE ELECTED TO ANY OFFICE IN 370!

LOCAL 370 SAYS

1. "WE ARE A CHARTERED UNION!"
2. "WE HAVE AN OFFICIAL SEAL!"
3. "WE ARE A PART OF THE STANDARD RAILROAD UNIONS!"

LOCAL 370 says

"THE BROTHERHOOD IS NOT A STANDARD RAILROAD UNION!"

"THE BROTHERHOOD HAS NO CHARTER!"

"THE BROTHERHOOD IS A STAND-BY WEAK UNION!"

"THE BROTHERHOOD HAS NO PROMOTION RIGHTS IN ANY AGREEMENT IT HAS SIGNED! YOU ARE HIRED AS A PORTER OR ATTENDANT AND CAN'T GO UP OR DOWN!"

LOCAL 370 SAYS

"JUST COMPARE HOW AS A WORKER YOU WERE TREATED WITH PULLMAN, WITH HOW YOU ARE TREATED ON THE CENTRAL!

"COOKS AND WAITERS WERE TREATED LIKE DOGS A FEW YEARS AGO ON THE CENTRAL! LOCAL 370 DEMANDED THAT OUR MEMBERS BE TREATED AS MEN!"

YOU NEED A UNION TO PROTECT YOUR JOB!!

YOU MUST PAY DUES! YOU ARE PAYING CADILLAC PRICES FOR SECOND HAND COMPACT CAR REPRESENTATION!

SIGN A CARD! GET INTO A REAL UNION!

LOCAL 370 will GET YOU A DECENT AGREEMEN

FRATERNALLY YOURS,

DUDLEY WASHINGTON,
GENERAL CHAIRMAN
Local 370 of the Hotel and Restaurant International. Member No-Operating Railroad Unions, A.F. of L. - C.I.O. & Canadian Labour Council.

EXHIBIT 5 (f)

EXHIBIT 5 (g) Pg. 1

File

DINING CAR EMPLOYEES UNION

LOCAL 370

JULY, 1961

DEAR CENTRAL PORTER or ATTENDANT;

JOB PROTECTION IS THE MOST IMPORTANT INDIVIDUAL UNION OBLIGATION TO THE INDIVIDUAL MEMBER and HIS FAMILY!

THE BROTHERHOOD OF SLEEPING CAR PORTERS IS A **JOB DESTROYING UNION!**

BROTHERHOOD **SAYS** THEY ARE A **FIGHTING UNION** and HAVE FOUGHT AND WON RATES OF PAY, RULES and WORKING CONDITIONS FOR ALL SERVICE CLASSES ON RAILROAD.

LOCAL 370 SAYS, AS A FIGHTER FOR LABOR CONDITIONS ON RAILROADS **THE BROTHERHOOD COULD NOT PUNCH THEIR WAY OUT OF A PAPER BAG WITH BRASS KNUCKLES ON EACH FIST!**

LOCAL 370 ASKS, HOW COULD THE BROTHERHOOD WIN A FIGHT WHEN **THEY HAVE NEVER ENTERED THE RING!**

THE BROTHERHOOD IS **A STAND-BY UNION!** THEY NEVER HAVE BEEN A PART OF THE NON-OPS!

Look on Page 1 of the new Travelers Insurance Policy Book the Unions who fought and WON this Life Insurance! YOU SEE LOCAL 370's INTERNATIONAL! BUT YOU WON'T FIND THE BROTHERHOOD!

LOCTL 370 HAS BEEN A PARTY TO EVERY NATIONAL WAGE MOVEMENT SINCE 1943!

THE BROTHERHOOD IS THE **LITTLE CHAMP** WHO WAS NOT THERE!

THE BROTHERHOOD HAD TO BEG PULLMAN AND THE CENTRAL FOR WAGE INCREASES, HOSPITALIZATION, VACATIONS AND LIFE INSURANCE THAT LOCAL 370 FOUGHT FOR AND WON!

PULLMAN AND THE CENTRAL DON'T GIVE AWAY MONEY FOR NOTHING!

THE BROTHERHOOD SACRIFICED JOBS AND COST RULES TO GET THE WAGE INCREASES REAL UNIONS **FOUGHT FOR, PAID FOR** AND **WON!**

GOOD COST RULES INCREASE JOBS!

POOR COST RULES DECREASE JOBS!

THE BROTHERHOOD OF SLEEPING CAR PORTERS SIGNED AN AGREEMENT WITH THE CENTRAL THAT HAS ROTTEN, DIRTY, FILTHY COST RULES FROM COVER TO COVER! EVERY PORTER ON THE CENTRAL **KNOWS THAT YOU HAVE LOST JOBS ON THE CENTRAL SINCE JUNE 1, 1960!**

LOCAL 370 MEANS YOU PORTERS HAVE LOST JOBS **BY AGREEMENT BETWEEN** THE BROTHERHOOD AND THE CENTRAL!

YOU HAD 4 CALENDAR DAYS OFF, EACH MONTH. **BROTHERHOOD TOOK THOSE 4 DAYS FROM YOU!**

PORTERS WORK **EVERY DAY OF THE MONTH!** 200 PORTERS WORKING EVERY DAY, WORK 800 MORE DAYS A MONTH THAN BEFORE THE BROTHERHOOD GAVE AWAY YOUR RIGHTS.

EXHIBIT 5 (g) Pg. 1

EXHIBIT 5 (g) Pg. 2

800 DAYS IS 25 REGULAR JOBS GONE!

THE BROTHERHOOD EXTENDED REST TIME 2 HOURS LONGER EACH NIGHT!

300 PORTERS SLEEP 2 HOURS LONGER WITHOUT PAY EACH NIGHT! **THE COMPANY SAVES 600 HOURS PAY EACH NIGHT!**

A PORTER LOSES 2 HOURS A NIGHT, 15 NIGHTS A MONTH THAT'S 30 HOURS OR 4 DAYS FOR EACH PORTER. 1 PORTER IN 8 LOSES A JOB BECAUSE THE OTHER 7 SLEEP 2 HOURS LONGER EACH NIGHT!

WE TOLD YOU THE BROTHERHOOD HAD NO EXPERIENCE IN RAILROAD LABOR!

THE BROTHERHOOD THROUGH THEIR SCANDAL SHEET, THE BLACK WORKER, LIES TO YOU, THE OTHER UNIONS, THE RAILROADS AND THE PUBLIC, ABOUT THEIR WONDERFUL AGREEMENTS!

THE RAILROADS REGARD THE BROTHERHOOD AS A SOFT TOUCH!

REPUTABLE LABOR ORGANIZATIONS KNOW WHAT SAD AGREEMENTS THE BROTHERHOOD HAS!

THAT LEAVES ONLY **YOU** AND **THE PUBLIC** TO BE FOOLED!

LOCAL 370 SAYS THE BROTHERHOOD HAS TAKEN AWAY **GRANTED RIGHTS** FROM EVERY PORTER ON THE CENTRAL AND CONTRACTUAL RIGHTS OF EVERY ATTENDANT ON THE CENTRAL! LOCAL 370 SAYS, HER WORKING AGREEMENT WITH THE CENTRAL FAR SURPASSES THE BROTHERHOOD AGREEMENT ON THE CENTRAL OR WITH PULLMAN!

LOCAL 370 CHALLENGES THE BROTHERHOOD TO AN OPEN DEBATE ON THE COMPARATIVE QUALITIES OF THE AGREEMENTS!

LOCAL 370 WILL INVITE COOKS AND WAITERS AND LABOR REPRESENTATIVES OF ALL NEW YORK NEWSPAPERS AS REFEREES!

THE BROTHERHOOD MAY INVITE PORTERS AND ATTENDANTS.

LOCAL 370 SAYS THE BROTHERHOOD IS LIKE A BANTY ROOSTER, THAT CROWS NIGHT AND DAY **BUT PRODUCES NOTHING!**

LOCAL 370 INVITES THE BROTHERHOOD TO PROVE-UP or **SHUT-UP!**

DUDLEY WASHINGTON
Joint Council Dining Car
Local 370 - AFL-CIO

Affiliated with 17 Co-Operating
Railroad Unions

EXHIBIT 5 (g) Pg. 2

EXHIBIT 5 (h)

Mc
File

LOCAL 370 and LOCAL 233 AFL.-CIO.

September, 1961

Locals 233 and 370's **Declaration of Intentions and Principles for Porters and Attendants on** the New York Central.

1. A Seniority Roster set up and agreed upon by Porters **only.**
2. A decent Agreement that must be approved by **Porters** and **Attendants only** before it is signed.
3. Locals 233 and 370 will protect the job rights and seniority rights of every Porter and Attendant on the New York Central Roster. No waiter or cook can or will go above any Porter or Attendant on your Seniority Roster.
4. **Meetings**: Porters and Attendants will have sole voice and vote for or against, in meetings on problems that deal with your rates of pay rules and working conditions. You will have **the free and unrestricted right to express your opinion in meetings!**
5. **Representation;** Locals 370 and 233 promises strong, militant representation for every member on a fair impartial basis.
6. **Fear**; No member of Locals 233 and 370 **need be afraid of any officer of** this Union or an **official of the Company!** You have a right **under the law to sign cards and vote for the Union you want!** THE RAILWAY LABOR ACT and THE LANDRUM GRIFFIN BILL MAKE IT A CRIME FOR A UNION OR A COMPANY TO THREATEN ANY MEMBER OR EMPLOYEE ABOUT HIS CARD OR VOTE!
7. LOCALS 233 and 370 ARE MEMBERS OF THE HOTEL AND RESTAURANT EMPLOYEES INTERNATIONAL AFL.-CIO. WITH 899 locals and 460,000 MEMBERS. LOCALS 233 and 370 ARE MEMBERS OF THE 11 CO-OPERATING, - NON-OPERATING STANDARD RAILROAD UNIONS WITH 600,000 MEMBERS!

LOCALS 233 and 370 ARE **PROGRESSIVE, FORWARD LOOKING, DEMOCRATIC UNIONS!**

SIGN A CARD TODAY! SIGN FOR **TRAINED RAILROAD UNION REPRESENTATIVES!**

JOIN A UNION WITH A CHARTER! JOIN A UNION THAT IS AFFILIATED WITH RAILROAD LABOR GROUPS!

You must pay dues. PAY YOUR DUES TO A RAILROAD UNION!

Sign a card for LOCALS 233 and 370 and BECOME A PARTY TO ALL WAGE INCREASES AND BENEFITS THAT NON-OPS GET!

LOCALS 233 and 370 CANNOT ASSESS OUR MEMBERS UNLESS THE MEMBERSHIP VOTES **IN FAVOR** OF AN ASSESSMENT AND **OUR INTERNATIONAL PRESIDENT APPROVES!**

SIGN A CARD TODAY!

Very fraternally yours,

L. L. LYMAN	DUDLEY WASHINGTON
General Chairman Local 233	General Chairman Local 370

WE THE FOLLOWING COMMITTEE MEMBERS HELPED DRAW UP, AND APPROVE THE DECLARATIONS EXPRESSED HEREIN:

Richard E. Jackson

[illegible]

L. H. Harper

V. J. Watson

EXHIBIT 5 (h)

EXHIBIT 5 (1) Pg. 1

MC File

LOCAL 370's DIGEST and OPINION OF CENTRAL AGREEMENT FOR PORTERS and ATTENDANTS

UNCLE TOM AIN'T DEAD!

There are three kinds of agreements a union can negotiate for its members.

1. A progressive agreement, which increases the rates of pay, rules or working conditions for the membership.

2. A sweetheart agreement whereby the union gives away certain rights, or does not demand the full conditions other comparable unions have, or obtain for their members.

3. An Uncle Tom agreement whereby a union cravenly and cowardly gives away rights already in force, or signs and agreement that is sub-average and a "Company Rights Agreement."

This Local 370 asserts that the Brotherhood of sleeping Car Porters on the property of the New York Central, effective June 1, 1960, in violation of the Railway Labor Act, and the Landrum-Griffin Bill, signed away the contractual rights of attendants, and substituted, without knowledge, consent or approval of the attendants and porters an Uncle Tom Agreement.

In order to give a fair and impartial review of this abject, craven and cowardly surrender of the rights of these employees we shall tell you what the Brotherhood signed away, rule by rule, for attendants and the agreement they signed for attendants and porters.

Rule 3 — Basis of Pay

Brotherhood took from attendants and signed for attendants and porters a give away rule that saves the central over $50,000 per year by reducing work day from 8 hours to 6 hours 30 minutes pay.

June, 1959, an attendant comes in on June 18th; has 2 days layover. That attendant takes off for duration of June; would receive 136 2/3 hours pay or hours worked, whichever is greater.

June 1960 that attendant and all porters would by Brotherhood surrender, receive 123 hours pay for the same run on the same days.

Attendants had a monthly guarantee of 205 hours under Local 370!

Brotherhood in Rule 3, gives the Central the right to carry time worked into the following month. Another $50,000 rule the Brotherhood gave away!

Rule 4 — Sleep Periods

Attendants had a rule that only hours between 10:00 P. M. and 5:00 A. M. where sleeping accomodations were provided could be deducted as rest time. Brotherhood signed away 2 extra rest hours each night where employees could be protecting but not paid. Another $75,000 yearly saving for the Central

Rule 5 — Time Allowance

Attandants had a 2 hour turn around rule. Brotherhood reduced this period for attendants and porters to 1 hour!

Rule 6 — Dead Head Service

Attendants had rule that all dead head pay except the hours between 10:00 P. M. and 5:00 A. M. where sleeping accomodations were provided would constitute service time. Attendants had free board and lodging.

Porters had free lodging wherever Central had sleeping quarters for dining car crews. Brotherhood took away all board and lodging from attendants and porters and signed a rule that attendants and porters get a maxi-

EXHIBIT 5 (1) Pg. 1

[redacted]

mum of 8 hours dead head pay in any 24 hour period.

A Local 370 member and a porter dead head to St. Louis. The 370 member gets 17 hours pay, the Brotherhood member 8 hours.

Central saves over $150.000 a year on board, lodging and deadheading on this Brotherhood give away!

Rule 7 — Station Duty - Held and Not Used

Attendants had rule, if called for any service after release minimum of 4 hours for 4 hours or less, over 4 hours 8 hours pay. If held on duty after completion of trip minimum of 2 hours.

Brotherhood changed the rule if held over 4 hours, 8 hours pay actual time after 4 hours and the 2 hours minimum, if held after completing run to 1 hour minimum.

Rule 9 — Terminal Allowance

Attendants had 8 hours pay, as terminal time in any 24 hour period when held away from home beyond layover. Brotherhood cut this terminal pay to 6 hours 50 minutes for attendants and porters. Attendants and porters who were caught away from home during the strike got 6 hours 50 minutes per day. 370 members received 8 hours pay per day held.

Another Brotherhood "give away"

Rule 12 — Days off Duty

Attendants had by rule and porters by schedule, 4 calendar days off each month. Brotherhood changed 4 days to, 4 twenty-four hour periods. Central can work porters and attendants every day of their lives! Porters and attendants lost jobs. Central can work every porter and attendant 4 more days each month. Extra porters and attendants lose this work.

Central can save over $250,000 a year on this Uncle Tom rule!

Rule 14 — Seniority

Attendants had a seniority roster set up for them by real labor unions. The Brotherhood could not tear down the attendants' seniority although they tried. This group who claim they are a labor union set up seniority by age. Brotherhood did not want the men who had the jobs; or the porters that got the jobs. They wanted Central to fire all of you and hire the porters who had the jobs under Pullman! Brotherhood wanted "yes" men who would sit in the Amen Corner and "Amen" the Brotherhood when they lied about winning a great victory over the Central. Seniority is the cornerstone of trade unionism. Brotherhood violated every principle and tenet of collective bargaining in seniority by age.

Rule 20

Gives the Central the right to transfer runs at anytime, to consolidate runs whenever and wherever the company wishes.

Rule 28

Attendants had seniority regular or extra by districts. Brotherhood surrendered this rule. Central can work an extra Chicago man, out of New York, first out provided he is headed in the general direction of Chicago. Since all runs from New York are in the general direction of every other district, any extra porter or attendant who works into New York is first out over the New York district porter or attendant. Another $50,000 a year give away!

Rule 38 — Vacation

Rule 38 — cuts the standard 8 hours per day vacation pay to 6 hours 50 minutes pay per day. An attendant took his vacation in May 1960 and was paid 144 hours pay under 370. That same attendant this year under Brotherhood will receive 123 hours pay. This Uncle Tom rule saves the Central $10,000 a year, will be $20,000 in 5 years and $30,000 in 15 years!

Why would the Brotherhood sign such an "Uncle Tom" Agreement?

Assessments were due August 1th, 1960. Central would not sign a Union Shop Agreement. until Brotherhood signed a working agreement. Brotherhood wanted $5,000.00 in assessments so signed an "Uncle Tom" agreement that saves Central 1/2 million dollars a year!

Brotherhood's agreement with Pullman is a poor agreement. The agreements with the Central and New Haven are pure GIVE AWAY, UNCLE TOM AGREEMENTS!

We are ashamed to admit that any Negro Union would sign such a disgraceful agreement.

In 1958 Local 370 told you the Brotherhood was not qualified to fight the Central.

Compare real unions with the Brotherhood! READ LOCAL 370's AGREEMENT.

600 Marine employees tied up the Central and New Haven, fighting for a principle!

The BROTHERHOOD TUCKED THEIR TAILS BETWEEN THEIR LEGS and SURRENDERED WITHOUT A WORD! WE ARE SORRY, WE WERE RIGHT!

Fraternally yours,

DUDLEY WASHINGTON,
General Chairman,
Local 370

[illegible]

EXHIBIT 5 (j) Pg. 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
FILED
MAY 4 - 1964
S.D. OF N.Y.

- x

LEXIUS H. HARPER, LEE WHITE, ARTHUR CHILDS, C.H. LASSITER, R.L. KOGER, EUGENE HOPKINS, CHRISTIE WALDRON, J. V. DALTON, CLAUDIUS WALKER, RICHARD E. JACKSON, JOHN ALEXANDER, individually and in behalf of other sleeping car porters similarly situated

Plaintiffs

-against-

A. PHILIP RANDOLPH, President and ASHLEY T. TOTTEN, Secretary-Treasurer, BROTHERHOOD OF SLEEPING CAR PORTERS, Union, and THE NEW YORK CENTRAL SYSTEM

Defendants.

- x

60 Civ. 2446

OPINION

Appearances:

ITKIN, ROBERTS AND GREENBAUM, ESQS.,
Attorneys for Plaintiffs
103 Park Avenue, New York, N. Y.
Arthur M. Laufer, Esq.
Of Counsel.

DELSON & GORDON, ESQS.,
Attorneys for Defendant Brotherhood of Sleeping Car Porters
120 East 41st Street, New York, N. Y.
Ernest Fleischman, Esq.
Of Counsel.

GERALD E. DWYER, ESQS.,
Attorney for Defendant The New York Central System
466 Lexington Avenue, New York, N. Y.
Jerome H. Shapiro, Esq.
Of Counsel.

CASHIN, D. J.

This is an action instituted by plaintiffs individually and in behalf of other sleeping car porters similarly situated.

Defendant, Brotherhood of Sleeping Car Porters, Union, is an unincorporated association representing, among other persons, sleeping car porters in the railroad industry. Defendant, A. Philip Randolph is President of the Brotherhood; Ashley Totten, formerly the Brotherhood's Secretary-Treasurer, is now deceased.

Defendant, The New York Central Railroad Company, sued herein as The New York Central System, is a Delaware corporation with its principal office and place of business in the State of New York, within the Southern District of New York.

The essence of the plaintiffs' complaint is that they have been deprived of their seniority rights by reason of defendants' discrimination against them by the adoption of a seniority provision favoring a small group with less time on the job. They also allege a violation of their statutory right to be fairly represented.

Prior to July 1, 1958, plaintiffs (except Waldron who had been employed by Central in its dining car service) were employed by the Pullman Company as sleeping car porters. While plaintiffs were employed by Pullman their seniority rights were determined on the basis of their length of service, which was the customary and traditional norm used by the defendant Brotherhood and other railway brotherhoods.

On July 1, 1958 the Pullman Company terminated its sleeping car service on the defendant Central System, and Central then took over operation of the sleeping cars on its lines and hired plaintiffs as sleeping car porters. The sleeping car porters hired by Central for its own operations commencing July 1, 1958 had, in large part, previously been employed by Pullman. Some were in active employment by Pullman at the time of employment, while others had been furloughed by Pullman prior to their employment by Central. Some of those employed by Central had worked for Pullman on roads other than Central and some new hired porters were obtained from other sources.

Prior to July 1, 1958, Central began to recruit sleeping car porters. Each applicant, including plaintiffs, prior to employment by Central or upon making an application, signed a card reading as follows:-

> "I understand that in order to become eligible for employment with The New York Central Railroad Company, I must relinquish any employment relationship I may have with any other employer and agree that I will do so."

There is also credible evidence that plaintiffs were told personally that they were being taken on by Central as "new employees." As of July 1, 1958 the employment of sleeping car porters by Central was not governed by any collective bargaining agreement, and there was no applicable collective bargaining agreement until June 1, 1960.

At or about the time that Central began sleeping car operations, defendant Brotherhood requested recognition as bargaining agent for sleeping car porters. Pursuant to a representation election conducted by the National Mediation Board, the Brotherhood was duly certified in August 1959 as the collective bargaining agent for the sleeping car porters and the lounge car attendants. Subsequent to such certification, Central and Brotherhood entered into bargaining negotiations which finally resulted in an agreement entered into on May 18, 1960 and effective June 1, 1960.

There was considerable testimony by plaintiffs that after plaintiffs were hired as new employees by Central, Central did in fact make use of accumulated railroad service as the criterion for job assignment. There was testimony that a Mr. Cassell, a supervisor for Central, changed assignments on the basis of previous length of service. However, I find as a fact that there was no seniority system involving a posted roster or a system of bidding for jobs. I further find that Central did not use the Pullman seniority list as the criterion for assignments. Assignments were made on the basis of the porter's experience and reports by traveling supervisors as to the porter's ability. Mr. Cassell made changes in assignments on the basis of his opinion of the particular porter's value on a job, and in many instances seniority might tend to reflect the particular porter's special experience. Between July 1, 1958 and June 1, 1960, assignments of Central sleeping car porters were made at the discretion of management exercised by local supervisors.

During the lengthy period of time in which negotiations were conducted between Central and the Brotherhood, the Brotherhood sought, among other things, a provision which would credit employees with seniority based on their service with the Pullman Company. Central's negotiators asserted, however, that the sleeping car porters were taken as new employees and were not entitled to any seniority. Central also argued that the granting of this special recognition to sleeping car porters for prior service with an outside entity would cause difficulty with and be unfair to other new employees who had been taken on in connection with the new sleeping car operation and who had taken their place in various craft seniority lists as new employees. An alternative which was considered was the listing of the men by the first date of compensated service. This concept was rejected, however, since almost all men entered compensated service on the same day, July 1, 1958. Among other alternatives were the listing of men in alphabetical order, and by their identification numbers.

After an impasse was reached over this and other issues, a mediator was assigned by the National Mediation Board to assist the parties in reaching an agreement. The parties met with the mediator and recommenced bargaining on the seniority provision as well as on other open provisions of the contract.

An agreement was reached between the Brotherhood and Central on May 18, 1960 relating to rates of pay, rules and working conditions for Central's sleeping car porters and sleeping lounge car attendants, effective June 1, 1960. Rule 14 of the agreement provided that the seniority roster was to be prepared in the order of the age of the employee. The employee who was oldest chronologically would come first on the seniority list, and no consideration would be given to the accumulated length of service of the employee.

The seniority lists drawn up pursuant to the agreement have been in effect continuously since then, and are now relied on for continued employment by those listed thereon.

The Brotherhood did not submit the collective bargaining agreement of May 18, 1960 to its membership for ratification. The circumstances of the negotiations are such, however, that it is clear that both the Central and the Brotherhood at all times bargained at arm's length and in good faith, with both sides acting in the honest belief that the actions taken by them were proper and necessary. Moreover, there is ample evidence that their agreement was a reasonable one under the circumstances.

I find no credible evidence that either the Brotherhood or Central put the chronological age seniority provision into effect because of any malice toward the plaintiffs. I find no credible evidence to substantiate the claim that the Brotherhood agreed to the seniority proposal of the Central in order to favor the older men because they had paid dues, while the younger men had not paid dues. It was the Central which proposed seniority based on chronological age, and not the Brotherhood. The Brotherhood representatives only relinquished their opposition to the Central proposal after much hard bargaining, and with the conviction that an agreement with Central on that issue was necessary so as not to endanger the advantageous total package of proposals to which Central had agreed on other issues.

CONCLUSIONS OF LAW

1. The Court has jurisdiction of the parties and of the subject matter by reason of the Railway Labor Act, 45 U.S.C. § 151 et seq. Cunningham v. Erie R.R., 266 F.2d 411 (2 Cir. 1959).

2. Central negotiated in good faith with Brotherhood under the obligation imposed upon it by the Railway Labor Act, and did not in any manner manifest malice toward the plaintiffs.

3. The Brotherhood did not breach its duty to refrain from hostilely discriminating against the plaintiffs. The

Brotherhood and the individual defendants represented all members of the unit fairly and in good faith. Whatever adverse effect the seniority provision had on plaintiffs was not the result of invidious discrimination against them by any of the defendants.

4. The Brotherhood accepted Central's seniority proposal with much reluctance, but with the conviction that it was necessary in order to obtain for its members the best bargaining package possible under the circumstances. Considering the unusual situation presented in this case, it cannot be said that the defendants' agreement on the age seniority provision was an unreasonable one. Indeed, the Supreme Court has stated that seniority may be based on several norms, including the age of employees. Ford Motor Co. v. Huffman, 345 U.S. 330, 339 (1953).

5. Judgment should be entered dismissing the complaint herein with costs.

The above shall constitute my Findings of Fact and Conclusions of Law.

It is so ordered.

Dated: New York, N. Y.
May 4th, 1964.

JOHN N. CASHIN
United States District Judge

NATIONAL MEDIATION BOARD
WASHINGTON

April 3, 1959
Case No. R-3342

Mr. Leo B. Fee, Vice President
Employee Relations
New York Central System
466 Lexington Avenue
New York 17, N. Y.

Mr. E. S. Miller, General President
Hotel & Restaurant Employees
& Bartenders International Union
525 Walnut Street
Cincinnati 2, Ohio

Mr. A. Philip Randolph, Intl. President
Brotherhood of Sleeping Car Porters
2 17 West 125th Street, Room 301
New York 27, New York

Gentlemen:

By direction of the Board I am enclosing Determination of Craft or Class in the matter of representation of Sleeping Car Porters and Sleeping-Lounge Car Attendants, employees of the New York Central System, our Case R-3342.

Very truly yours,

(s) E. C. Thompson
Executive Secretary

Enclosure

cc: Mr. Richard W. Smith, Intl. Vice President
Hotel & Restaurant Employees
& Bartenders International Union
743 E. 75th Street
Chicago 19, Illinois

EXHIBIT 5 (k) Pg. 1

NATIONAL MEDIATION BOARD
WASHINGTON

In the matter of

REPRESENTATION OF EMPLOYEES

of the

NEW YORK CENTRAL SYSTEM

Sleeping Car Porters and Sleeping-Lounge Car Attendants

CASE NO. R-3342

DETERMINATION OF CRAFT OR CLASS

April 3, 1959

On July 15, 1958, the Brotherhood of Sleeping Car Porters, hereinafter referred to as BSCP, filed application under the provisions of Section 2, Ninth, of the Railway Labor Act for investigation of a representation dispute among Sleeping Car Porters, Sleeping-Lounge Car Attendants and Bus Boys, employees of the New York Central System. At the time the application was filed, the Sleeping Car Porters were unrepresented. The Sleeping-Lounge Car Attendants were represented by the Hotel and Restaurant Employees and Bartenders International Union, hereinafter referred to as HRE. The carrier had no employees on Sleeping Cars designated as Bus Boys. This dispute involves approximately 400 Sleeping Car Porters and about 80 Sleeping-Lounge Car Attendants. It developed during the investigation that there is no material issue as to the representation of employees working exclusively as Sleeping Car Porters. The HRE, however, takes the position that Sleeping-Lounge Car Attendants are a part of the craft or class of Dining Car employees of the New York Central System represented by that organization. The BSCP takes the position that Sleeping Car Porters and Sleeping-Lounge Car Attendants should be voted together as one representation unit.

Prior to July 1, 1958, all Sleeping Car equipment in service on the New York Central System was under the supervision and control of The Pullman Company and manned by its employees. Effective July 1, 1958, the New York Central System severed its operational agreement with The Pullman Company and took over the operation of all Sleeping Car equipment running on its lines. On the same date the individuals employed in the operation of the equipment became employees of the New York Central System.

Before July 1, 1958, all of the employees involved in this dispute had been represented by the BSCP under an agreement between that organization and The Pullman Company. The severance of The Pullman Company agreement on July 1, 1958, brought about a condition whereby the Sleeping Car Porters entering the service of the New York Central System on that date were without collective bargaining representation. The Sleeping-Lounge Car Attendants on that date however, were represented by the HRE pursuant to the terms of an agreement negotiated between the New York Central System and the HRE on June 19, 1958. This agreement came out of negotiations between the carrier and the HRE, which followed a request from that organization upon this Board to interpret a certain portion of the mediation agreement made between the New York Central System and the HRE on December 23, 1941, our Cases Nos. A-965, A-1054 and A-1067. The provision of the mediation agreement on which the interpretation was requested reads as follows:

> "1. (a) Both parties to this agreement recognize that, in line with past practice, food and/or beverages served by Pullman employees from Pullman cars does not infringe upon any rights of the railroad company's employees under the rules agreement or otherwise."

The negotiations between the New York Central System and the HRE which resulted in the agreement dated June 19, 1958, provided, among other things, that the scope rule of the HRE agreement would be amended by the addition of Sleeping -Lounge Car Attendants to be included as an additional seniority class in the general class of waiters. This agreement, however, recognized the possibility of a representation dispute arising among this group of employees as it contained a clause reading as follows:

> "It is further agreed that if a determination should be made under the Railway Labor Act, as amended, that sleeping-lounge car attendant positions referred to in this Agreement belong to another class or craft, then the unions signatory hereto agree to be bound by such determination with respect to said sleeping-lounge car attendant positions, provided however that with respect to the proceeding which might result in the aforesaid determination, the carrier specifically recognizes and agrees that nothing contained in this Paragraph 11 shall prejudice the Organization's right or freedom to assert any defense or position it may desire."

Following receipt of the above-mentioned application from the BSCP it was given File No. C-2802 and was assigned to Mediator E. C. Frank for investigation. On September 4, 1958, an agreement was entered into with the assistance of the mediator between the contesting organizations in which they agreed that no issue of representation of Lounge and Parlor Car Porters, Train and Coach Porters employed as such by the New York Central System existed and by reason thereof are not considered as a part of File No. C-2802. These classifications of Porters are represented by the HRE on the New York Central System.

In the course of the investigation, the BSCP asserted that Sleeping Car Porters and Sleeping-Lounge Car Attendants should be voted together as one craft or class. Their contentions supporting this position may be summarized as follows:

(a) Board's decision Case R-2009, NYNH&H where it ordered an election among parlor car porters, space assigners, parlor car attendants and bus boys.

(b) The national bargaining unit established by the Board in 1935 for The Pullman Company included porters, attendants and bus boys.

(c) Preponderance of service should govern and in this case the preponderance is in favor of sleeping car porter duties.

(d) There is no difference in the work performed by attendants on the cars now operated by the New York Central System from the work performed by attendants on these cars when under The Pullman Company supervision.

The HRE on the other hand contended that Sleeping-Lounge Car Attendants are a part of the craft or class of Dining Car employees on the New York Central System by reason of the above-cited agreement of June 19, 1958. Their position supporting this contention can be summarized as follows:

(1) The craft or class as applied to Pullman Company employees working on trains, except Pullman Conductors, encompasses more than one craft or class and should not be extended to a railroad company

(2) Community of interest between sleeping-lounge car attendants and dining car employees based on intermingling of seniority as provided for in the above-mentioned agreement of June 19, 1958.

(3) Preponderance of service of sleeping-lounge car attendants places them in the craft of class of dining car employees.

Since it was not possible to reconcile the opposing views of these organizations, the Board directed that a hearing be held on the subject. This hearing was held before Board Member Robert O. Boyd in New York City on October 30th and 31st, 1958. Both organizations were afforded full opportunity to be heard and to examine and cross-examine witnesses. Briefs were filed by both organizations.1/

THE ISSUE

The issue here before the Board is whether Sleeping-Lounge Car Attendants should be included with Sleeping Car Porters as one unit for the purpose of determining the representation desires of these employees pursuant to Section 2, Ninth of the Railway Labor Act.

1/ The full Board has appraised the material appearing in the footnote on Page 2 of the main brief of BSCP. The innuendo contained therein is completely uncalled for and has had no bearing on the ultimate conclusion reached.

EXHIBIT 5 (k) Pg. 4

DISCUSSION

On July 1, 1958, the New York Central System took over from The Pullman Company operation of various types of sleeping car equipment, including combination bedroom and roomette cars, solid roomette cars, standard sleeping car equipment and a number of club-lounge cars; some with lounge area and 6 double bedrooms and some with lounge-observation area and 5 double bedrooms. The duties of the Sleeping Car Porters on all types of sleeping car equipment, excluding club-lounge cars, include the following:

1. Set up cars for reception of passengers.
2. Check linen and equipment.
3. Receive and discharge passengers and handle luggage.
4. Make beds and arrange for personal service to individuals occupying space in car.
5. Shine shoes, call and arrange to detrain passengers.
6. Put away car equipment, unmake beds, check linen and baggage and search for lost articles.
7. Report any defects in cars.

The duties of sleeping-lounge car attendants on club lounge cars are described as follows:

1. Set up car for reception of passengers.
2. Check stock of buffet setting, including linen.
3. Set up lounge section for service to passengers.
4. Receive and discharge passengers, including handling luggage.
5. Make beds and arrange to give special service to individual passengers occupying space in car.
6. Shine shoes, call and arrange to detrain passengers.
7. Serve food and/or drinks according to menu on car.
8. Account for all stock, sold or unsold.
9. Remit revenue from all sales.
10. Put away car equipment and check bag linen, clean buffet and check stock.

In addition to the bedrooms and lounge areas on the club lounge cars these cars have a galley for the preparation of food and drinks for serving passengers. These passengers may be occupants of sleeping cars or coach passengers.

Representation of the sleeping car employees of The Pullman Company, except Sleeping Car Conductors, was acquired by the BSCP under certification issued by this Board in Case No. R-129 on July 1, 1935. At that time such employees of The Pullman Company, aside from Conductors, were represented by the Pullman Porters and Maids Protective Association. The preamble of the Constitution of that Association states it represents the Porters, Maids, Cooks, Waiters and Bus Men in the employ of The Pullman Company. All of these classifications of employees were voted in the election conducted by this Board under Case No. R-129 and were lumped together in that certification under the title of Porters and Maids.

EXHIBIT 5 (k) Pg. 5

The scope rule of the current agreement between The Pullman Company and the BSCP provides that it shall apply to all employees of The Pullman Company in their performance of service in connection with sleeping, parlor, buffet, restaurant, dining, broiler, recreation, club and composite cars operated by The Pullman Company, these employees being classified as follows:

1. Porters, including porters in charge when so designated;
2. Attendants, including attendants in charge when so designated and attendants assigned to kitchen work. (Attendants are employes assigned to buffet, club, broiler, restaurant, dining, composite and recreation cars operated by The Pullman Company who, in addition to other duties, are held accountable for commissary supplies and equipment on such cars);
3. Maids; and
4. Bus Boys

This grouping of the employees for representation purposes has existed on The Pullman Company from the date of the certification in R-129 to the present time. While this grouping of employees may not be considered by some to be a craft or class for representation purposes under the Railway Labor Act, it is the grouping in which the employes of the Pullman Company have associated themselves by voluntary action as mentioned in Section 1, Fifth of the Railway Labor Act, and which has been generally recognized as an appropriate representation unit in the industry. No attempt has been made to separate or sub-divide these groups of employees into smaller groups on the theory that such sub-division might constitute a craft or class as found to exist among employees of other carriers subject to the Act.

In its determination of the craft or class in Case No. R-2009, representation of Parlor Car Porters, Space Assigners, Parlor Car Attendants and Bus Boys on the New York, New Haven & Hartford Railroad Company, the Board considered a somewhat similar representation situation. In that case the employees in question performed not only the customary porters duties of Parlor Car Porters and Attendants but also were required to serve passengers with refreshments. In that determination the Board made the following observations:

> "For many years the Board has used the rule of preponderant service in determining eligibility of employees to participate in elections. In this case parlor car attendants and bus boys are preponderantly occupied in parlor car porter duties both in point of time and priority of service according to carrier direction.
>
> "There are other distinguishing factors between the buffet car porters considered in the Chicago-Northwestern case (R-1663) and the parlor car attendants and bus boys in this case. Chief among these is the fact that the buffet car porters considered in the Northwestern case work in cars used mainly by passengers

temporarily while enroute who were assigned traveling space in another car. Thus, on that carrier, the major duties of buffet car porters are serving passengers with food and beverages as contrasted to the New Haven where these are incidental duties of parlor car attendants.

"The employees involved in this dispute were for many years employed by The Pullman Company and represented, along with parlor car porters, by the Brotherhood. There has been no change in their duties since February 1, 1948, when operation of the various types of parlor cars was taken over by the New Haven.

"There is some interchange in assignments between parlor car porters and parlor car attendants. There is no such interchange between parlor car attendants and bus boys assignments and dining car employees.

"The determination in R-1663 was based in part on the fact that on most railroads and in most elections previously conducted by the Board, buffet car porters and dining car employees were combined for representation purposes. That determination did not take into account the fact that there are 951 somewhat similar employees of the Pullman Company all of whom for many years have been combined with parlor car porters for representation purposes. This group is considerably larger than the number of such employees employed directly by the railroads which totals approximately 300. Of the total of 1,251 such employees on the railroads and Pullman together, only about 20 percent have been combined with dining car employees for representation purposes."

The instant case, while covering different groups of former Pullman Company employees, contains essentially the elements of similarity to the principles used by the Board in arriving at the decision in Case R-2009.

In the consideration of disputes involving representation of employees under the Act a number of general factors are taken into account. These include composition and relative permanency of employee groupings along craft or class lines on carriers generally as well as on particular carriers; the extent and effectiveness of past collective bargaining arrangements; the functions, duties and responsibilities of employes; the general nature of their work and community of interest existing between the jobs are other factors considered. Previous decisions of the Board which bear on the issues of the general dispute are also taken into account. The record in this case shows that the employees involved in this dispute have been represented with other similar employees of The Pullman Company as a single group by the same organization from 1935 to 1959, a period of 24 years. This unbroken length of representation indicates the extent and effectiveness of the past collective bargaining arrangements and the community of interest existing between the jobs in these classifications.

The Board is of the opinion that the agreement of June 19, 1958 between the New York Central System and the HRE is not decisive in determining the question of representation before the Board in this case. The history of representation and grouping of employees when the cars were operated by The Pullman Company far outweighs, in the Board's opinion, any importance which may be attached to the recent grouping of Sleeping-Lounge Car Attendants with the Dining Car employees of the New York Central System under the June 19, 1958 agreement.

As stated in the Board's Findings in Case No. R-2009 quoted above - "For many years the Board has used the rule of preponderant service in determining eligibility of employees to participate in election." In this instance there is sharp conflict between the description of duties performed by the Sleeping-Lounge Car Attendants as given by the BSCP and the HRE. The carrier's records shed little if any light on the question of preponderance of duties as between porter work and the serving of food and drinks performed by these Sleeping-Lounge Car Attendants. Therefore, in view of the conflicting claims of the two organizations and the lack of real evidence before it on this subject, the Board has concluded that the question at issue should be determined on the basis of the history of past representation of these employees and the community of interest among them as developed over the years under such representation.

The Board, accordingly, finds that the Sleeping Car Porters and Sleeping-Lounge Car Attendants employed by the New York Central System together constitute a proper grouping for representation purposes under the Railway Labor Act, and should be voted as a single representation unit.

CONCLUSION

On the basis of the entire record the Board directs that the application of the Brotherhood of Sleeping Car Porters dated July 15, 1958, be docketed as Case No. R-3342 and that the Sleeping Car Porters and Sleeping-Lounge Car Attendants be voted as a single representation unit.

A mediator will be assigned to conduct an election among these employees at an early date.

By direction of the NATIONAL MEDIATION BOARD.

(s) E. C. Thompson
Executive Secretary

NATIONAL MEDIATION BOARD
(AN AGENCY OF THE UNITED STATES GOVERNMENT)

EXHIBIT NO. 6(a)

NOTICE OF ELECTION
TO BE HELD UNDER THE
RAILWAY LABOR ACT
INVOLVING

DINING CAR EMPLOYEES (Dining Car Chefs, Dining Car, Dinette and Coach Cafe Cooks, Stationary Pantrymen, Pantrymen, Waiters-in-Charge, Head Waiters, Waiters, Waiter-Porters, Zephyr Coach Waiter-Porters, Porter-Waiters, Zephyr Coach Porters, Lounge Car and Parlor Car Porters, Coach Cafe Waiters-in-Charge, Cocktail Loung Porter-Waiters)

EMPLOYEES OF CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

Chicago, Illinois
August 22, 1960
Case No. R-3434

TO ALL CONCERNED:

A secret ballot will be taken of eligible voters on the question of representation as submitted to the National Mediation Board by Brotherhood of Sleeping Car Porters, Case R-3434.

Section 2, Fourth, of the Railway Labor Act, as amended June 21, 1934, provides that "The majority of any craft or class of employes shall have the right to determine who shall be the representative of the craft or class for the purpose of this Act."

Attention is called to Section 2, Railway Labor Act, providing that elections shall be free from interference, influence or coercion, etc., also that it is unlawful for any carrier to interfere in any way with the organization of the employes, etc. Attention is also called to Order No. 1 issued by the National Mediation Board on August 14, 1934, and sent to the President of the Carrier in which it was ordered that "notice in re Railway Labor Act, should be posted and maintained continuously in readable condition on all the usual and customary bulletin boards. No electioneering of any kind will be permitted within a distance of 150 feet of the polling place, and the election shall be conducted in such manner that interference, influence, or coercion on the part of the officers, foremen or others in a supervisory capacity, will be avoided."

Reports of any violation should be made to the Mediator or the National Mediation Board, Washington, D.C.

THE RULES TO GOVERN THE ELECTION ARE AS FOLLOWS

1. Time and Place of Election - The taking of the vote will be as nearly as possible on the following schedule:

City	Date of Voting	Place of Voting	Hours of Voting	
Chicago, Ill.	August 29, 1960	1447 South Canal Street (Equipment Room)	7:30-11:30 AM & 1:00-3:00 PM	Daylight Time
"	August 30, 1960	"	7:30-11:30 AM & 1:00-3:00 PM	"
"	August 31, 1960	"	7:30-11:30 AM & 1:00-3:00 PM	"
"	September 1, 1960	"	7:30-11:30 AM & 1:00-3:00 PM	"
"	September 2, 1960	"	7:30-11:30 AM & 1:00-3:00 PM	"
Lincoln, Nebr.	September 8, 1960	In Coach on stub track No. 1, west end of station.	6:30-11:00 AM	Standard Time
"	September 9, 1960		6:30-11:00 AM	"

EXHIBIT 6 (a)

EXHIBIT 6 (b)

CASE NO. R-3434

OFFICIAL BALLOT

DINING CAR EMPLOYEES (Dining Car Chefs, Dining Car, Dinette and Coach Cafe Cooks, Stationary Pantrymen, Pantrymen, Waiters-in-Charge, Head Waiters, Waiters, Waiter-Porters, Zephyr Coach Waiter-Porters, Porter-Waiters, Zephyr Coach Porters, Lounge Car and Parlor Car Porters, Coach Cafe Waiters-in-Charge, Cocktail Lounge Porter-Waiters)

EMPLOYES OF
CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

A dispute exists among the above-named employes as to who are the representatives of such employes designated and authorized in accordance with the requirements of the Railway Labor Act, and the National Mediation Board is taking a secret ballot in order to ascertain and to certify the name or names of organizations or individuals designated and authorized to act as representatives for the purpose of the Act.

If you desire to be represented by -
JOINT COUNCIL OF DINING CAR EMPLOYEES, LOCAL 848
HOTEL & RESTAURANT EMPLOYEES & BARTENDERS INTERNATIONAL UNION, A.F.L. - C.I.O.
Mark an "X" in this square. ☐

SAMPLE

If you desire to be represented by -
BROTHERHOOD OF SLEEPING CAR
PORTERS, A.F.L. - C.I.O.
Mark an "X" in this square. ☐

SAMPLE

If you desire to be represented by -
ANY OTHER ORGANIZATION OR INDIVIDUAL, write
name of such Organization or Individual in
space below and mark "X" in this square. ☐

NOTICE

1. This is a SECRET BALLOT: Do not sign your name.

2. Return this ballot in its entirety. Do not cut, mutilate or otherwise spoil it. If you do so, return ballot at once to the Mediator and obtain a new one.

EXHIBIT 6 (b)

EXHIBIT 7

OFFICIAL BALLOT
of
ATTENDANTS, INCLUDING CLUB CAR PORTERS AND SPECIAL SERVICE ATTENDANTS
Employes of
THE LONG ISLAND RAIL ROAD COMPANY
August 9, 1962, to August 22, 1962

SAMPLE

A dispute exists among the abovenamed craft or class of employes as to who are the representatives of such employes designated and authorized in accordance with the requirements of the Railway Labor Act, and the National Mediation Board is taking a SECRET BALLOT in order to ascertain and to certify the name or names of organizations or individuals designated and authorized as representatives for purposes of the Act.

INSTRUCTIONS FOR VOTING

Mark an "X" in the square of your choice. Marks in more than one square make ballot void.

If you desire to be represented by:

JOINT COUNCIL DINING CAR EMPLOYEES-HOTEL AND RESTAURANT EMPLOYES AND BARTENDERS INT'L UNION, AFL-CIO

Mark an "X" in this square -- ☐

If you desire to be represented by:

BROTHERHOOD OF SLEEPING CAR PORTERS, AFL-CIO

Mark an "X" in this square -- ☐

If you desire to be represented by:

BROTHERHOOD OF RAILROAD TRAINMEN, AFL-CIO

Mark an "X" in this square -- ☐

If you desire to be represented by:

ANY OTHER ORGANIZATION OR INDIVIDUAL

Write name of such organization or individual on the line below,

____, AND

Mark an "X" in this square -- ☐

NOTICE

1. This is a SECRET BALLOT: Do not sign your name
2. Return this ballot in its entirety. Do not cut, mutilate or otherwise spoil it. If you do so, return ballot at once to the Mediator and obtain a new one.

EXHIBIT 7

Joint Council of Dining Car Employees

743 East 75th Street
Chicago 19, Illinois

Richard W. Smith
Secretary-Treasurer

Telephone
TRiangle 4-9414-15

FACTS DINING CAR WORKERS SHOULD KNOW REGARDING BROTHERHOOD OF SLEEPING CAR PORTERS' NEGOTIATIONS, SHORTER HOURS, JOB PROTECTION, CIVIL RIGHTS, ETC.

The Brotherhood asks our Atlantic Coast Line and Seaboard Air Line members to "judge a tree by its fruit." We take this to mean that the record of the Brotherhood is such that dining car employees will of necessity receive more benefits or protection under its "banner" than they have or will receive as members of our Organization. It thus becomes a legitimate question to ask: "Just what has the Brotherhood done for sleeping car porters?" Or, to turn a phrase, "What 'fruit' has come from the 'tree' the Brotherhood is attempting to sell you?"

NEGOTIATIONS and the BROTHERHOOD OF SLEEPING CAR PORTERS

From 1941 to 1962, the Joint Council Dining Car Employees negotiated every basic improvement in rates of pay, hospitalization, vacations, reduction of hours, etc., that were LATER enjoyed by the sleeping car porters. If you have been in dining car service for any length of time and particularly those of you who have been in the service since 1941, you will remember that dining car workers always received their wage increases, vacations, hospitalization and other benefits FIRST. Sleeping car porters received these improvements sometime later. Why? The simple fact is, the Joint Council Dining Car Employees has participated directly in all of the national negotiations with the cooperating railway labor organizations. After our agreements were signed, the Brotherhood of Sleeping Car Porters simply took them to Pullman management and requested that they be given the same benefits. However, on several occasions, they even "goofed" this simple process, particularly on the vacation matter. Consider the following examples.

SIX HOURS AND FIFTY MINUTES VACATION DAY

WHY?

Pullman Porters receive six hours, fifty minutes a day vacation pay, instead of the eight hours that we receive. WHY? The fact is that they let the Pullman Company sell them the same bill of goods the railroads had tried to sell us for years. Their stupidity saved the Pullman Company millions of dollars---money that properly belonged to sleeping car porters. (EXHIBIT 8-Page 1)

NO REAL MONTHLY GUARANTEE

WHY?

One of the basic rules in our agreements is the Monthly Guarantee Rule. The agreement with the Brotherhood of Sleeping Car Porters permits the Company to use overtime in one month to make up the guarantee in the next month, again saving the Pullman Company hundreds of thousands of dollars. This may seem like a joke to a dining car employee, but here are the facts.

The following was taken from Rule 12, page 19 of the Agreement between the Brotherhood of Sleeping Car Porters and the Pullman Company:

> "BASIS OF PAYMENT.
>
> "Rule 12. Payment for Days Credited.
>
> "Q-2 An employe completes a round-trip in regular assignment in June carrying 12 days' credit and has 4 days' layover credit extending into July. He then lays off or leaves the service. How shall this employe be paid for this trip?
>
> "A-2 He shall be paid 8/30ths of his monthly wage for June and 4/31sts of this monthly wage for July..."

You can readily see how this arrangement permits the Pullman Company to save money on guarantees when a short month follows a long month, such as January and February. In the example from the Pullman Porters' agreement, the porter would receive wages in July for the time he worked in June. This was a real sucker arrangement for the Porters to enter into, and no one has benefited but the Pullman Company.

ASSESSMENTS and the BROTHERHOOD OF SLEEPING CAR PORTERS

The Executive Board of the Brotherhood of Sleeping Car Porters has assessed their members $70 in the past eighteen months---$35 in the year 1963 and $35 in the year of 1964. The regular $10 assessment plus the special assessment of $25 is due by June 1, 1964.

We are not against assessments. Any labor organization may

(Exhibit 8 - Page 2)

need additional funds at any time. We believe, however, that assessments should be approved by the membership. In the Brotherhood of Sleeping Car Porters, 13 men, who constitute the executive board, assess the members without a vote of the membership. Assessments in our local unions must be approved by the membership. It may seem strange to any dining car worker that a union member can be assessed without his having had an opportunity to vote. However, the Brotherhood of Sleeping Car Porters, by a stinky legal maneuver, placed the authority to assess in their executive board. This board determines when and how much an assessment will be and the members must pay, but have nothing to say.

For your information, I have set forth below a portion of a letter dealing with assessments that was signed by Mr. Randolph.

> "SPECIAL $25.00 ASSESSMENT
>
> "This is to advise that at the last meeting of the International Executive Board held in Chicago, Illinois, January 7-9, 1964, the levy of a special assessment of $25.00 per member, for the purpose of rebuilding the Union's financial structure, was thoroughly discussed and unanimously adopted by the Board.
>
> "This assessment is due and payable at once. But a deadline for the final payment of this tax was fixed by the International Executive Board as of April 1, 1964. However, since the major portion of the membership is now just being informed of this action by the International Executive Board, I am calling on the International Executive Board to extend the deadline for the payment of this tax to June 1, 1964.
>
> "A. PHILIP RANDOLPH
> "International President"

SHORTER HOURS
vs.
JOB PROTECTION

Without question, the most critical problem facing all railroad employees is the loss of jobs occasioned by the elimination of trains, consolidation of trains and the reduction in the size of crews.

Our Organization had originally adopted a program which included a short-hour proposal. We recalled, however, that in 1949, when the hours of dining car employees were reduced from 240 to 205, the carriers proceeded to cut the number of hours per assignment, to create swing runs and to curtail services generally. In fact, one year later, after railroad workers had received a reduction from six days to five per week and for dining car workers from 240 to 205 hours per month, there were no more railroad or dining car employees working than there were prior to the reduction in hours. We have found further that on several railroads, dining car employees on regular assignments now work an average of only 181 hours and on a number of roads an average of 190 hours. Clearly, the most important problem facing dining car employees was, and is, some control over the rate in which a railroad can abolish jobs. Obviously, a job and income protection agreement should be given primary consideration. It is simply a matter of putting first things first.

This is why we joined with the Brotherhood of Railway Clerks, the Brotherhood of Maintenance of Way Employees and the Order of Railroad Telegraphers in a national movement to secure JOB AND INCOME PROTECTION FOR OUR MEMBERS FIRST. Such agreements are already in existence between the Chicago and North Western, the Southern Pacific, the New York Central, the Telegraphers and Clerks organizations. As a result, we feel reasonably sure that dining car employees will receive the same protection in 1964. When we have secured JOB PROTECTION we will then revert to our original plan and immediately serve proposals for a reduction in hours.

The Brotherhood of Sleeping Car Porters recently negotiated an agreement for shorter hours, WITHOUT JOB PROTECTION as railroad workers understand that term today. By job protection (and income protection) we mean an agreement which prohibits a railroad from reducing forces beyond that resulting from death or retirement; an agreement which guarantees a furloughed employee 60% of his income for five years, or severance pay based on his years of service; and an agreement which guarantees a displaced employee that he will not suffer a loss in pay for five years from the date of displacement.. THIS is our JOB PROTECTION PROGRAM. THIS is what railroad workers really need - including PULLMAN PORTERS. The job protection referred to by the Brotherhood in its "Bulletin" only purports to allow a porter to follow his job in the event a railroad company takes over the operation of sleeping car service over its lines.

Since the Brotherhood has signed the short hours agreement, the Pullman Company has eliminated sleeping cars and club cars on many trains, reducing the number of porters. As a consequence, the reduction in hours has proved of little or no benefit. What the porters needed first was a job and income protection agreement. This is what usually happens when "followers" attempt to "lead."

The Brotherhood, in stepping out of its traditional role of following OUR lead, has failed to protect its members.

CIVIL RIGHTS
and the
BROTHERHOOD OF SLEEPING CAR PORTERS

NO NEGRO PULLMAN CONDUCTORS. WHY?

In the struggle for civil rights, the President of the Brotherhood of Sleeping Car Porters, A. Philip Randolph, has done some outstanding work. He was the architect of the "March on Washington," and I believe for his work in this field he should be given much credit. But WHY HAS HE DONE NOTHING FOR PULLMAN PORTERS?

Yes, Mr. Randolph has marched on Washington, but HE HAS NEVER MARCHED ON THE PULLMAN COMPANY. No Negro has ever been promoted to the position of Pullman Conductor. Neither Mr. Randolph nor the Brotherhood has demanded that sleeping car porters be promoted to sleeping car conductors. In fact, it is very possible, unless something happens very soon, that sleeping cars may have come onto and gone from the American scene without a Negro ever having worked as a pullman conductor. Mr. Randolph has diligently worked for "integration" outside of the railroad industry, yet he proposes to "segregate" Negro porters and dining car employees into one small union.

Our Organization has demanded and secured positions as Stewards for many of our waiters and waiters-in-charge. While reduction in passenger dining car service has cut the number of Negroes working as stewards, they are still employed by a number of roads, and we are now demanding that waiters and waiters-in-charge be promoted when additional stewards are needed. In fact, waiters-in-charge were promoted to stewards this year on the Great Northern and Milwaukee railroads. Negro stewards are working, or have worked on the following roads:

New York Central
Rock Island
Santa Fe
Pennsylvania
North Western
Great Northern
Illinois Central
Milwaukee
Southern Pacific
New Haven

This Organization believes that charity begins at home; that an organisation is obligated to first seek benefits for its dues paying members. The upgrading of dining car workers in the railroad industry has been our program since the first year the Joint Council was established. We cannot understand nor agree with the "Uncle Tom" attitude of the Brotherhood of Sleeping Car Porters in not demanding the upgrading of their members by the Pullman Company.

Dining Car Employes Local 354

News Bulletin

H.&R.E.&B.I. UNION
Affiliated AFL-CIO
May, 1964
Vol. 19 No. 2

FACTS DINING CAR WORKERS SHOULD KNOW REGARDING BROTHERHOOD OF SLEEPING CAR PORTERS' NEGOTIATIONS, SHORTER HOURS, JOB PROTECTION, CIVIL RIGHTS, ETC.

NEGOTIATIONS AND THE BROTHERHOOD OF SLEEPING CAR PORTERS

From 1941 to 1962, the Joint Council Dining Car Employes negotiated every basic improvement in rates of pay, hospitalization, vacations, reduction of hours, etc., that were LATER enjoyed by the sleeping car porters. If you have been in dining car service for any length of time and particularly those of you who have been in the service since 1941, you will remember that dining car workers always received their wage increases, vacations, hospitalization and other benefits FIRST. Sleeping car porters received these improvements sometime later. Why? The simple fact is, the Joint Council Dining Car Employes has participated directly in all of the national negotiations with the cooperating railway labor organizations. After our agreements were signed, the Brotherhood of Sleeping Car Porters simply took them to Pullman management and requested that they be given the same benefits. However, on several occasions, they even "goofed" this simple process, particularly on the vacation matter. Consider the following examples.

SIX HOURS AND FIFTY MINUTES VACATION DAY. WHY?

Pullman Porters receive six hours, fifty minutes a day vacation pay, instead of the eight hours that we receive. Why? The fact is that they let the Pullman Company sell them the same bill of goods the railroads had tried to sell us for years. Their stupidity saved the Pullman Company millions of dollars--money that properly belonged to sleeping car porters.

NO REAL MONTHLY GUARANTEE. WHY?

One of the basic rules in our agreements is the Monthly Guarantee Rule. The agreement with the Brotherhood of Sleeping Car Porters permits the Company to use overtime in one month to make up the

([illegible] 2)
[illegible] balance of this story [illegible] to [illegible]

EXHIBIT 10(a)

OFFICIAL BALLOT

of
PARLOR CAR ATTENDANTS, LOUNGE CAR ATTENDANTS AND SPACE ASSIGNERS

Employes of
THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD COMPANY
R-3402
February 16, 1960 to March 4, 1960

A dispute exists among the above named craft or class of employes as to who are the representatives of such employes designated and authorized in accordance with the requirements of the RAILWAY LABOR ACT, and the National Mediation Board is taking a SECRET BALLOT in order to ascertain and to certify the name or names of organizations or individuals designated and authorized as representatives for the purposes of the ACT.

INSTRUCTIONS FOR VOTING

Mark an "X" in the square of your choice. Marks in more than one square make ballot void.

If you desire to be represented by:
BROTHERHOOD OF SLEEPING CAR PORTERS

Mark an "X" in this square...................... ☐

If you desire to be represented by:
DINING CAR EMPLOYEES UNION, LOCAL 370, HOTEL AND RESTAURANT EMPLOYEES & BARTENDERS INTERNATIONAL UNION

Mark an "X" in this square...................... ☐

SAMPLE

If you desire to be represented by:
ANY OTHER ORGANIZATION OR INDIVIDUAL
Write name of such organization or individual on the line below

____ AND

Mark an "X" in this square...................... ☐

SAMPLE

NOTICE

1. This is a SECRET BALLOT: Do not sign your name.
2. Return this ballot in its entirety. Do not cut, mutilate or otherwise spoil it. If you do so, return ballot at once to the Mediator and obtain a new one.

EXHIBIT 10 (a)

EXHIBIT 11

[illegible] file

NEW HAVEN PARLOR CAR EMPLOYEES

LOCAL 370 WISHES YOU and YOURS A HAPPY 1960

Local 370 asks, "Which Direction are you going in 1960?"

You can go FORWARD WITH LOCAL 370 or YOU CAN GO BACKWARDS WITH THE BROTHERHOOD!

Negotiations between railroad unions and all railroads on wage increases, improved vacation rules and life insurance began in Chicago this week.

LOCAL 370 WAS REPRESENTED AT THESE CONFERENCES!

LOCAL 370 is a part of the non-ops, we get what real railroad unions pay for and FIGHT TO GET! THE NON-OPS HAVE OVER 600,000 MEMBERS!

LOCAL 370 have representatives on the property in New York and Boston!

LOCAL 370's by-laws, our Joint Council by-laws and our International Constitution demands that the members approve any rules changes before your representatives sign them!

THE BROTHERHOOD SIGNE WHAT THEY THINK YOU SHOULD HAVE!

You could'nt find a Brotherhood representative with a pair of field glasses!

A MEDIATOR WILL BE ON THE NEW HAVEN TO HOLD AN ELECTION SOON.

YOU WILL STUMBLE OVER BROTHERHOOD REPRESENTATIVES EVERYWHERE YOU TURN AS SOON AS THEY FIND OUT ABOUT THE ELECTION! THEY WILL GIVE YOU THE SAME OLD BALONEY, and PROMISE YOU THE MOON AGAIN!

VOTE FOR LOCAL 370!!

WE HAVE NO LIFE TIME OFFICERS! Our officers are nominated and elected by the membership every 2 years!

YOU CAN GET A BETTER AGREEMENT!

You are railroad employees now. YOU BELONG IN A RAILROAD UNION!

LOCAL 370 PROMISES TO PROTECT YOUR SENIORITY and to CLEAN UP THE DISGRACEFUL MESS THE BROTHERHOOD CALLED AN AGREEMENT and RAMMED DOWN YOUR THROATS!

MAY 1960 BE A HAPPIER YEAR FOR YOU AND YOURS.

VOTE FOR 370!

Very fraternally yours,

L. McDONALD	W. CHANDLER	P. GOODWYN	DUDLEY WASHINGTON
V. LOCAL CHAIRMAN	SYSTEM CHAIRMAN	PRESIDENT	GENERAL CHAIRMAN

EXHIBIT 11

EXHIBIT 12 (a)

OFFICIAL BALLOT

RUN-OFF ELECTION

of
PARLOR CAR ATTENDANTS, LOUNGE CAR ATTENDANTS AND SPACE ASSIGNERS

Employes of
THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD COMPANY
R-3539
May 14, 1962 to May 28, 1962

A dispute exists among the above named craft or class of employes as to who are the representatives of such employes designated and authorized in accordance with the requirements of the RAILWAY LABOR ACT, and the National Mediation Board is taking a SECRET BALLOT in order to ascertain and to certify the name or names of organizations or individuals designated and authorized as representatives for the purposes of the ACT.

INSTRUCTIONS FOR VOTING

Mark an "X" in the square of your choice. Marks in more than one square make ballot void. Write-in or other marks void Ballot.

If you desire to be represented by:
BROTHERHOOD OF SLEEPING CAR PORTERS
Mark an "X" in this square. . . . . ☐

SAMPLE

If you desire to be represented by:
DINING CAR EMPLOYEES UNION, LOCAL 370, HOTEL AND RESTAURANT EMPLOYEES & BARTENDERS INTERNATIONAL UNION
Mark an "X" in this square. . . . . ☐

NOTICE

1. This is a SECRET BALLOT: Do not sign your name.
2. Return this ballot in its entirety. Do not cut, mutilate or otherwise spoil it. If you do so, return ballot at once to the Mediator and obtain a new one.

EXHIBIT 12 (a)

NATIONAL MEDIATION BOARD

WASHINGTON

In the Matter of

REPRESENTATION OF EMPLOYEES

of

THE NEW YORK, NEW HAVEN AND HARTFORD
RAILROAD COMPANY.
Parlor Lounge Car Attendants and
Space Assigners.

CASE NO. R-3539

CERTIFICATION

June 7, 1962

The services of the National Mediation Board were invoked by the Hotel and Restaurant Employees and Bartenders International Union, to investigate and determine who may represent for purposes of the Railway Labor Act, as provided by Section 2, Ninth, thereof, the craft or class of Parlor Lounge Car Attendants and Space Assigners, employees of The New York, New Haven and Hartford Railroad Company.

At the time application was received these employees were represented by the Brotherhood of Sleeping Car Porters.

The Board assigned Mediator Eugene C. Frank to investigate.

FINDINGS

The investigation disclosed that a dispute existed among the employees concerned and by direction of the Board, the mediator was instructed to conduct an election by secret ballot, using an agreed to eligible list to determine the employees' representation choice.

Following is the result of the election as reported by Mediator Eugene C. Frank, who was assigned to count the ballots in this case, and attested on April 24, 1962, by representatives of the contesting organizations, who acted as party observers.

Number of Employees Voting:

	Brotherhood of Sleeping Car Porters	Hotel and Restaurant Employees and Bartenders Intl. Union	Any Other Organization or Individual	Void Ballots	Number of Employees Eligible
Parlor Lounge Car Attendants and Space Assigners........	19	25	14 *	0	59

*--Transport Workers Union

(Exhibit 12 (b))

The above tabulation clearly indicates that no organization or individual received a majority of the valid ballots cast. Pursuant to Rule 1206.1 of the Board's rules and regulations, the Hotel and Restaurant Employees and Bartenders International Union requested, in a letter dated April 25, 1962, that the Board conduct a run-off election as provided in Section 1206.1(c) of the Board's rules and regulations. In accordance with that rule, the Board directed that a run-off election be conducted for the craft or class involved.

Following is the result of the run-off election as reported by Mediator Eugene C. Frank, and attested on May 28, 1962, by representatives of the contesting organizations who acted as observers.

Number of Employees Voting:

	Brotherhood of Sleeping Car Porters	Hotel and Restaurant Employees and Bartenders International Union	Number of Employees Eligible
Parlor Lounge Car Attendants and Space Assigners..............	27	32	59

The National Mediation Board further finds that the carrier and employees in this case are, respectively, a carrier and employees within the meaning of the Railway Labor Act, as amended; that this Board has jurisdiction over the dispute involved herein; and that the interested parties were given due notice of investigation.

CERTIFICATION

Therefore, the National Mediation Board certifies that the Hotel and Restaurant Employees and Bartenders International Union has been duly designated and authorized to represent for the purposes of the Railway Labor Act, the craft or class of Parlor Lounge Car Attendants and Space Assigners, employees of The New York, New Haven and Hartford Railroad Company, its successors and assigns.

By direction of the NATIONAL MEDIATION BOARD:

E. C. Thompson
E. C. Thompson
Executive Secretary

(Exhibit 12 (c))

LOCAL 370 [illegible] LOCAL 370

[illegible]

DEAR SIR AND BROTHER:

YOU ARE BEING ASKED TO SIGN CARDS FOR THE BROTHERHOOD OF SLEEPING CAR PORTERS.

YOU ARE TOLD LOCAL 370 HAS NOT LIVED UP TO HER PROMISES.

NOW THE GROUP WHO SOLD YOU DOWN THE RIVER IN THE FIRST PLACE ARE ASKING YOU, TO GIVE THEM THE RIGHT TO BETRAY YOU AGAIN!

WHO NEGOTIATED AND SIGNED THIS AGREEMENT YOUR JOHNNY MORSE AND CADILLAC PETE RAVE AGAINST?

THE BROTHERHOOD!

WHO CHANGED YOUR SENIORITY ROSTER WITHOUT YOUR KNOWLEDGE AND CONSENT?

THE BROTHERHOOD!

WHO SIGNED A SENIORITY ROSTER ON THE CENTRAL BY AGE INSTEAD OF RAILROAD SERVICE?

THE BROTHERHOOD!

WHO SIGNED A SWEETHEART AGREEMENT ON SHORTER HOURS ON THE CENTRAL AND WITH THE PULLMAN CO., WITHOUT JOB PROTECTION AND HAS LOST OVER 100 JOBS SINCE JANUARY 1?

THE BROTHERHOOD!

EXTRA EMPLOYEES ARE HURT BY THIS "SWEETHEART" AGREEMENT! THEIR VACATION PAY, THEIR UNEMPLOYMENT PAY AND THEIR SICK BENEFITS WILL BE [illegible]! EXTRA EMPLOYEES GET 117 HOURS FOR 18 DAYS VACATION! THIS PAY WILL GO [illegible] TO 100 HOURS!

WE ARE NEGOTIATING FOR:

24 DAYS VACATION AFTER 10 YEARS
$6,000. LIFE INSURANCE PAID FOR BY THE RAILROADS, WITH A
$2,000. PAID UP LIFE INSURANCE POLICY FOR RETIRED MEN
A WAGE INCREASE EACH YEAR but above all -
JOB PROTECTION!

ARE YOU WILLING TO GIVE UP ALL CHANCES FOR WHAT WE ARE FIGHTING FOR TO GO BACK TO A COMPANY FRONT UNION THAT SOLD YOU DOWN THE RIVER?

THINK BEFORE YOU ACT! DO NOT PERMIT CRACK POTS AND PUBLICITY HOUNDS, BETRAY YOU!

MORE LATER

FRATERNALLY YOURS,

DUDLEY WASHINGTON,
GENERAL CHAIRMAN.

EXHIBIT [illegible]13

[illegible] 1967

NATIONAL MEDIATION BOARD
WASHINGTON, D.C. 20572

August 29, 1966
Case No. [illegible]

Mr. R. A. Carroll
General Manager-Labor Relations
Erie Lackawanna Railroad Company
Midland Building
Cleveland, Ohio 44115

Mr. Eugene V. Atwood
Director, Railroad Division
International Vice President
Transport Workers Union of America
1980 Broadway
New York, New York 10023

✓ Mr. A. Philip Randolph, Int'l President
Brotherhood of Sleeping Car Porters
217 West 125th Street - Room 301
New York, New York 10027

Mr. Richard V. Smith
Int'l Vice President
Hotel & Restaurant Employees &
Bartenders Int'l Union
[illegible] East 79th Street
Chicago, Illinois

Gentlemen:

By direction of the Board, I am enclosing Notice of Hearing in the matter of representation of [illegible] Bartenders, employees of Erie Lackawanna Railroad Company.

Very truly yours,

Thomas A. Tracy

Thomas A. Tracy
Executive Secretary

cc: CSA Reporting Corp.
The Reporters Building
300 - 7th Street, S. W.
Washington, D. C.

RECEIVED
AUG 30 1966
OFFICE OF THE PRESIDENT

NATIONAL MEDIATION BOARD
WASHINGTON, D.C. 20572

In the Matter of the Application of

BROTHERHOOD OF SLEEPING CAR PORTERS

alleging representation dispute pursuant to:
Section 2, Ninth, of the Railway Labor Act

involving employees of

ERIE-LACKAWANNA RAILROAD COMPANY

FILE NO. C-3642

NOTICE OF HEARING

August 29, 1966

On January 18, 1966, the Brotherhood of Sleeping Car Porters, filed an application with the National Mediation Board pursuant to Section 2, Ninth, of the Railway Labor Act, alleging the existence of a representation dispute involving employees of Erie-Lackawanna Railroad Company, performing duties described as Commuter Bartenders. Subsequently, the Transport Workers Union of America, Railroad Division, intervened in this dispute.

During the preliminary investigation of this application, issues were raised which the Board finds require a recorded hearing at which time opportunity will be afforded to present oral and written proof. Sufficient reason appearing therefore,

NOTICE, is hereby given that a public hearing before the National Mediation Board will be held on the issues raised in this proceeding, in the Board's Hearing Room, located at 1222 - 16th Street, N. W., Washington, D. C. at 10:00 a.m., Wednesday, September 14, 1966.

The carrier is invited to be present for the purpose of presenting such factual information as the Board may require.

By direction of the NATIONAL MEDIATION BOARD, this 29th day of August, 1966.

Thomas A. Tracy
Executive Secretary

Originals to:

Mr. R. A. Carroll
General Manager-Labor Relations
Erie-Lackawanna Railroad Company
Midland Building
Cleveland, Ohio 44115

Mr. Eugene V. Attreed
Director, Railroad Division
International Vice President
Transport Workers Union of America
1980 Broadway
New York, New York 10023

Originals to:

Mr. A. Philip Randolph
International President
Brotherhood of Sleeping Car Porters
217 West 125th Street, Room 301
New York, New York 10027

Mr. Richard W. Smith
International Vice President
Hotel & Restaurant Employees and
Bartenders International Union
743 East 75th Street
Chicago, Illinois

Copies to:

CSA Reporting Corp.
The Reporters Building
300 - 7th Street, S. W.
Washington, D. C. 20024

LABOR BUREAU OF MIDDLE WEST

O. DAVID ZIMRING
E. L. OLIVER
W. M. HOMER
I. J. GROMFINE
H. STERNSTEIN

W. B. PEER
J. G. FRYE

CHICAGO OFFICE
11 SOUTH LA SALLE STREET
STATE 2-7067

WASHINGTON OFFICE
1155 FIFTEENTH STREET, N. W.
296-7420

Dear Mr. Randolph,

There are attached hereto an original and one copy of a letter which, if approved by you, should be mailed by you to Brother Meany. An envelope has also been supplied for your convenience. The copy you may retain for your files.

I have the other copies of the letter which I will mail to the Mediation Board, Mr. McNeal, and the Dining Car Union. If possible, call me tonite at my home, phone no. 726-1047, and I will mail them immediately.

If you have any questions, do not hesitate to call either me or Mr. Gromfine (phone no. OL 6-4724).

William B. Peer

BROTHERHOOD OF SLEEPING CAR PORTERS

217 West 125th Street - Room 301

New York, N.Y. 10027

August 31, 1966

Mr. George Meany, President
American Federation of Labor and
Congress of Industrial Organizations
815 - 16th St., N. W.
Washington, D. C.

Dear Brother Meany:

It is the purpose of this letter to complain of the non-compliance by the Hotel and Restaurant Employees' and Bartenders' International Union, AFL-CIO, with a determination of the Impartial Umpire. I request, pursuant to Article XXI, Section 14, of the Constitution of the AFL-CIO, that a subcommittee of the executive council be convened as soon as possible, and that, if necessary, appropriate sanctions be imposed in order to remedy the non-compliance.

A brief review of the dispute is as follows: On May 5, 1966, Mr. David L. Cole, Impartial Umpire, ruled on the complaint of the Brotherhood of Sleeping Car Porters in case No. 66-32 that "The acts of the Hotel and Restaurant Employees' and Bartenders' International Union with respect to the sleeping car employees of the Grand Trunk Western Railroad ... were in violation of Section 2 of Article XXI of the AFL-CIO Constitution." No appeal from this determination was taken and, because of this, I had assumed the matter was closed. Indeed, on May 18, 1966, I was in receipt of a telegram from the Executive Secretary of the National Mediation Board advising me that the Hotel and Restaurant Employees' Union was relinquishing its claim. In addition, shortly thereafter I received from your office a copy of a letter addressed by the Union to the Carrier which also stated that it was relinquishing its position to represent the employees involved.

However, it soon appeared that the Union was in non-compliance with the determination, and was acting contrary to its representations to your office. You will recall that the Brotherhood had pending before the National Mediation Board in Case No. R-3853 (C-3653), an application to represent the sleeping car porters and others on the Grand Trunk. This application was supported by authorization-to-act cards signed by 13 of the 17 employees involved. This proceeding before the Mediation Board had been held in abeyance pending Mr. Cole's determination. After the determination was rendered, the Mediation Board renewed its preliminary investigation of the representation dispute. This investigation revealed that the Union was continuing to press its claim to represent certain kitchen attendants and bus boys who had been part of the established bargaining relationship between the Brotherhood and The Pullman Company which had been upheld by Mr. Cole. I was advised by the Mediation Board on August 26, 1966, that a hearing will be held by the Mediation Board on September 13, 1966, to entertain evidence on the question raised by the Union of whether these two classes of employees will be included in the unit in the representation election.

It is obvious that the refusal by the Union to withdraw completely and unequivocally from the representation proceeding before the Mediation Board, and that the Union's persistence in pressing its claim to certain of the employees, places the Union in non-compliance with Mr. Cole's determination. In the proceeding before Mr. Cole, it was clearly understood, as we so stated in our formal presentation to Mr. Cole, that the established bargaining relationship with The Pullman Company consisted of employees which included porters, attendants on sleeper-buffet cars, bus boys and attendants-kitchen on the sleeper-buffet cars. The latter two classifications, differently named as waiters and cooks by the Union, are the two classes for which the Union has refused to relinquish its claim. The Union in fact admitted in its brief to Mr. Cole that these groups were among the employees of the established bargaining relationship at issue, and one of the Exhibits introduced by the Union dealt with these precise classifications and the work they performed. Mr. Cole's determination made no distinction between these two classes and the others involved, in confirming the Brotherhood's bargaining relationship, and it is too late for the Union to do so.

Under the circumstances, I am compelled to request that a subcommittee be convened as rapidly as possible. As I am sure you appreciate, the net effect of the Union's continuing efforts to destroy the Brotherhood's established bargaining relationship is to deny the employees the right of representation by the agent of their choice and the benefits and privileges of collective bargaining. Since January 1, 1966, when the Grand Trunk assumed operation of its sleeping-car service, the Brotherhood has been attempting to obtain for these employees the same rights, and the same standards of pay and terms and conditions of employment they possessed when they performed the very same job, on the same equipment, on the same trains for The Pullman Company. This effort has been frustrated by the refusal of the Union to comply in full with the determination of the Impartial Umpire.

As indicated above, the Mediation Board's hearing is scheduled for September 13, 1966. It may very well be that if a subcommittee can be convened immediately, this will obviate the need for this hearing altogether. For this additional reason, I request that the subcommittee be convened as rapidly as possible.

Fraternally yours,

A. Philip Randolph
International President

cc: Mr. Richard W. Smith

MEMORANDUM OF AGREEMENT

between the

UNION RAILWAY COMPANY

and the

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES

It is mutually agreed that in the application of Section 3 of Article I of the Agreement of February 7, 1965, the percentages of decline in business arrived at on the Missouri Pacific Railroad Company proper will be applicable on the Union Railway.

Signed at St. Louis, Missouri, this 1st day of July, 1965.

FOR THE EMPLOYES	FOR THE CARRIER
/s/ Frank D. Lupton General Chairman	/s/ B. W. Smith Director of Labor Relations

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272-5

THE FOLLOWING INTERPRETATIONS OF THE PROVISIONS OF THE MEDIATION AGREEMENT DATED FEBRUARY 7, 1965 (STABILIZATION OF EMPLOYMENT AGREEMENT) HAVE BEEN AGREED UPON BY THE PARTIES TO SAID AGREEMENT AND WILL HAVE THE SAME FORCE AND EFFECT AS THE PROVISIONS OF THE AGREEMENT THAT HAVE BEEN THUS INTERPRETED.

ARTICLE I - PROTECTED EMPLOYEES

Section 1 -

In determining whether an employe who was on furlough on October 1, 1964, where extra boards are not maintained meets the "active service" requirement of Article 1, Section 1, on that date, the following will govern:

> The total number of days an employe performs service during months in 1964 in which such employe is furloughed during the entire month should be divided by the total number of such months (irrespective of whether the days of service and the months of furlough in 1964 precede or follow October 1, 1964) and if the quotient of this calculation is seven (7) days or more the employe shall be considered to have been in "active service" on October 1, 1964. Days of service in which an employe is furloughed only a part of the month shall not be taken into account in determining whether the employe meets the "active service" requirement.
>
> Employes who were on furlough on October 1, 1964 and were not then available for all calls because of restrictions they had voluntarily placed on their availability are not to be considered in "active service" on that date.
>
> All employes who meet the qualifications herein specified and the other qualifications under Article 1, Section 1, of the Agreement dated February 7, 1965, who were on furlough on February 7, 1965 are entitled to be returned to active service no later than March 1, 1965.

Question No. 1: What are the protected rights of an employe who had two years of employment relationship on October 1, 1964, who had worked more than fifteen days in 1964, but was furloughed on September 30, 1964, and performed no service prior to February 8, 1965?

Answer to Question No. 1: Such an employe is not protected under Article 1, Section 1, but has rights to recall, compensation and exercise of seniority as is required to be accorded him pursuant to the applicable working agreement.

Question No. 2: An employe is furloughed on August 15, 1964, performs nine days of extra work in August, ten days in September, ten days in October, four days in November and three days in December. Does he meet the "active service" requirement of Article 1, Section 1, as of October 1, 1964?

Answer to Question No. 2: No. Although such an employe performed 36 days of extra work in the course of five months while furloughed, August is not taken into account because he was not furloughed during the entire month; during the remaining four months of 1964 he performed 27 days of service which is insufficient to meet the average of 7 days per month.

Question No. 3: An employe who is furloughed during the entire year of 1964 performs a total of 84 days of extra work during the year, all before October 1, 1964. Does he meet the "active service" requirement of Article 1, Section 1, as of October 1, 1964?

Answer to Question No. 3: Yes. He has performed the required average of 7 days of service for each month furloughed in 1964.

Question No. 4: Are employes who, by reason of personal illness, personal injury or because of their occupancy of an elective office or serving as a full time official with one of the unions parties to the February 7, 1965 Agreement who failed to qualify as protected employes under Article 1, Section 1, of the agreement entitled to protection if they would have otherwise qualified for protection?

Answer to Question No. 4: Yes. These employes, insofar as guaranteed compensation is concerned, would be guaranteed the rate of the position held on October 1, if they were holding a position in their own name; otherwise, guaranteed compensation will be on the basis of the position occupied on return to active service.

Question No. 5: Is the term "employment relationship" synonymous with "seniority"?

Answer to Question No. 5: The term "employment relationship" used in this Section should not be confused with the term "seniority", since it was used in the agreement to provide protection to employes who had at least a 2-year employment relationship with a carrier on October 1, 1964, but who may not have had at least 2 years' seniority.

Question No. 6: Are employes who meet the specified qualifications of "protected employes" and who were furloughed on the date of the agreement entitled to return to active service before March 1, 1965, if pursuant to their rights under the schedule agreement they elected to remain furloughed rather than exercise seniority to obtain work at a distant point, or temporary work, or work in a lower-rated classification?

Answer to Question No. 6: This question is answered in the preceding interpretations of Article 1, Section 1.

Question No. 7: What rights to employment or guarantee of compensation does an unprotected employe have?

Answer to Question No. 7: Except as provided in Article III 3, Section 5, such an employe retains his seniority rights and is entitled to such employment as he can obtain pursuant to such rights. The only compensation guarantee he has is the agreed-upon rate for the work he performs in pursuance of his exercise of seniority.

Question No. 8: Can a "protected employe" become unprotected other than pursuant to Article II; specifically, is a "protected employe's" protected status affected by being displaced by a senior unprotected employe?

Answer to Question No. 8: No.

Question No. 9: Can employment in more than one craft be counted in determining protected status?

Answer to Question No. 9: Ordinarily no; however, in cases such as promotion of a telegrapher to train dispatcher, promotion of a clerk to yardmaster, etc., where the seniority in the craft from which promoted is retained, employment in the higher classification will be counted.

Question No. 10: Can employment in more than one seniority district in the same craft on the same carrier be counted in determining protected status?

Answer to Question No. 10: Yes, provided the employe acquired and retained seniority on each seniority district or roster or was transferred to another seniority district or roster at the request of management for temporary service. Otherwise, no.

Question No. 11: Are employes who had 2 or more years' employment relationship on October 1, 1964, but who were absent in military service on October 1, 1964 and whose absence in military service prevented them from performing 15 days of service in 1964 "protected employes"?

Answer to Question No. 11: The answer to this question turns on the rights of the employes under the Universal Military Training and Service Act.

Section 2 -

Question No. 1: What is a "seasonal employe"?

Answer to Question No. 1: An employe is a "seasonal employe" within the meaning of this section if his employment during the years 1962, 1963 and 1964 followed a pattern of layoffs for seasonal reasons.

An employe who normally works on a regular job throughout the year in some capacity is not to be considered a seasonal employe merely because he normally takes seasonal work during a portion of the year and then reverts to his regular job; such an employe is covered by Section 1 of Article I. However, if he is replaced in his regular job during the period that he is on seasonal work by an employe whose pattern of employment is simply to serve as such replacement, that employe would be a seasonal employe.

Question No. 2: What protection is guaranteed to seasonal employes under this Section?

Answer to Question No. 2: A seasonal employe is guaranteed under this Section an offer of employment in future years equivalent to his 1964 seasonal employment both as to period and as to compensation. See Answer to Question No. 5 dealing with the exercise of seniority by seasonal employes.

Question No. 3: Must the equivalent employment offered in future years be offered in the same seniority territory or general work location in which the 1964 employment was performed?

Answer to Question No. 3: No. However, the offer of employment must be within the seasonal employe's seniority territory or if such employe has an employment relationship but does not have seniority the offer must be limited to the operating division on which the employe qualified by reason of service in 1964.

Question No. 4: Must the guaranteed employment period offered in future years be substantially the same period of the year as that in which the employe was employed in 1964?

Answer to Question No. 4: The guaranteed employment period offered in future years is to be in the same season as that in which the employe was employed in 1964, which could vary from year to year depending upon the characteristics of the season and the nature of work to be performed, but limited to the amount of time the individual worked in 1964.

Question No. 5: May a senior seasonal employe displace a junior seasonal employe and, if so, under what circumstances?

Answer to Question No. 5: If a senior seasonal employe worked less in 1964 than a junior seasonal employe in the same seniority district or roster (the same territory if employment relationship governs) such senior seasonal employe will be permitted to displace the junior seasonal employe for the purpose of working out the unexpired guarantee that otherwise would accrue to the junior seasonal employe.

Sections 3 and 4 -

Question No. 1: What is the relationship between the force reductions permitted under Section 3 and those permitted under Section 4?

Answer to Question No. 1: A carrier can reduce forces in the application of Section 3 if a sufficient decline in business is anticipated regardless of the cause or causes of such decline. However, if the carrier elects to abolish jobs under the provisions of Section 4, decline in business resulting from the emergency situation there involved will not be included in calculating the percentages for purposes of Section 3.

Question No. 2: What is a carrier required to do to support its claim of the right to make force reductions in pursuance of Section 3?

Answer to Question No. 2: Section 3 permits force reductions in anticipation of decline in business with the understanding that carriers will support the percentage of force reduction by furnishing pertinent information to the organizations' representatives as soon as available. If it should develop that the percentage of business decline did not occur as anticipated, employes improperly deprived of work will be made whole.

Question No. 3: How will the phrase "any 30-day period" be applied?

Answer to Question No. 3: The phrase "any 30-day period" as specified in Section 3 applies literally to any consecutive 30-day period, and not to a calendar day month. The carriers will furnish, as promptly as the information can be compiled, the gross operating revenue and net revenue ton mile data for the years 1963 and 1964 on a calendar month basis; if thereafter, a carrier reduces forces under Section 3 on the basis of a decline in business for a consecutive 30-day period not corresponding with a calendar month, the information for 1963 and 1964 will then be furnished for the 30-day period corresponding with the period used by the carrier to effect the force reduction.

Question No. 4: How does the decline in business formula apply to short lines or terminal companies for which data concerning net revenue ton miles or gross operating revenues may not exist?

Answer to Question No. 4: Short lines or terminal companies for which data covering net revenue ton miles or gross operating revenues may not exist should enter into local agreements for the purpose of providing an appropriate measure of volume of business which is equivalent to the measure provided for in Article I, Section 3.

Question No. 5: How is the base referred to in this Section to be determined?

Answer to Question No. 5: The base referred to in this Section is a number to be established with respect to each craft represented by the organizations on each signatory carrier. Such number with respect to each craft shall consist of the total number of employes represented by the respective organization on the respective carrier who qualify as protected employes under Article I, Section 1.

Question No. 6: What is the year upon which the 6% limitation is to be computed?

Answer to Question No. 6: The year upon which the 6% is to be computed begins on February 7, 1965 and runs through February 6, 1966 and in subsequent years means the corresponding period.

ARTICLE II - USE AND ASSIGNMENT OF EMPLOYES AND LOSS OF PROTECTION

Sections 1 and 2 -

Question No. 1: Are the seniority rights of an employe who ceases to be a "Protected employe" otherwise than by resignation, death, retirement or dismissal for cause, affected in any way?

Answer to Question No. 1: Except as provided in Article III, Section 5, such employes retain such seniority rights as they are entitled to under the applicable working agreement.

Section 1 -

Question No. 2: Is a position on another seniority roster with respect to which an employe holds no seniority, but with respect to which he holds preferential rights to employment as against a non-employe, a position available to such employe in the exercise of his seniority rights as that term is used in this Section?

Answer to Question No. 2: No.

Question No. 3: What are the obligations of extra employes with respect to obtaining or retaining a position in order to remain a "protected employe"?

Answer to Question No. 3: If an extra employe fails to obtain a position other than a temporary position available to him in the exercise of his seniority rights in accordance with the existing rules or agreements, he will lose his protected status. It should be understood, however, that this does not prohibit the making of local agreements which will permit an employe to remain an extra employe if there is a mutual understanding that this action may be justified.

Question No. 4: Does the phrase "fails to respond to extra work when called" apply to isolated instances of not receiving a call or being unavailable to respond?

Answer to Question No. 4: The provisions of Article II, Section 1, of the Agreement do require a furloughed employe protected under Article I, Section 1, to respond to a call for extra work in order to preserve the protected status. Isolated instances such as referred to in the Question should be handled on an equitable basis in the light of the circumstances involved. Seasonal employes must respond when offered employment as provided in Article I, Section 2.

Question No. 5: What should be the terms of travel expense rules to be negotiated under this Section?

Answer to Question No. 5: The National Railway Labor Conference and the Employes' National Conference Committee are making a survey of travel expense rules prevalent in the industry and will furnish to the Carrier and the Organization representatives appropriate guide lines for rules to be negotiated pursuant to this Section.

ARTICLE III - IMPLEMENTING AGREEMENTS

The parties to the Agreement of February 7, 1965, being not in accord as to the meaning and intent of Article III, Section 1, of that Agreement, have agreed on the following compromise interpretation to govern its application:

1. Implementing agreements will be required in the following situations:

   (a) Whenever the proposed change involves the transfer of employes from one seniority district or roster to another, as such seniority districts or rosters existed on February 7, 1965.

   (b) Whenever the proposed change, under the agreement in effect prior to February 7, 1965, would not have been permissible without conference and agreement with representatives of the Organizations.

That part of Item 1 (a) hereof which reads -

> "* * * as such seniority districts or rosters existed on February 7, 1965"

applies particularly to situations such as those that frequently obtain in collective agreements to which the Brotherhood of Maintenance of Way Employes is a party which provide that seniority is co-extensive with the territorial jurisdiction of a supervisory officer. Under these conditions, if the territory of the designated officer is expanded or contracted it does not have any effect on the seniority of the involved employes. The language above quoted is intended to mean that seniority districts or rosters existing on the effective date of the February 7, 1965 Agreement are not to be changed insofar as the application of the aforesaid agreement is concerned, except as the result of an implementing agreement or other agreement mutually acceptable to the interested parties.

2. In all instances in which the carrier makes a change such as described in Article III, Section 1, of the February 7, 1965 Agreement which does not require an implementing agreement under Item 1 hereof, but which requires an employe to change his place of residence in order to retain his protected status, such employe shall be accorded the benefits contained in Section 10 of the Washington Agreement notwithstanding anything to the contrary contained in said provisions and shall have five working days instead of the "two working days" provided by Section 10 (a) of said Agreement.

When a carrier makes a technological, operational or organizational change which does not require an implementing agreement, employes affected by such change will be permitted to exercise their seniority in conformity with existing seniority rules.

3. When changes are made under Items 1 or 2 above which do not result in an employe being required to work in excess of 30 normal travel route miles from the residence he occupies on the effective date of the change, such employe will not be considered as being required to change his place of residence unless otherwise agreed.

ARTICLE IV - COMPENSATION DUE PROTECTED EMPLOYES

Section 1 -

Question No. 1: What is the compensation guarantee of an employe who on October 1, 1964 held a regularly assigned position as a machine operator and during 1964 operated machines with varying rates of pay?

Answer to Question No. 1: A full time machine operator is guaranteed the respective rates of the various machines he operates.

Question No. 2: If an employe such as the employe referred to in the preceding question is compelled to leave a machine operator position under conditions in which the guarantee of Article IV, Section 1, continues to apply, how will such guarantee then be computed?

Answer to Question No. 2: Such guarantee then shall be the weighted average of the rates of the machines he operated during 1964.

Question No. 3: What is the compensation guarantee of an employe who on October 1, 1964 held a regularly assigned position and who normally works a portion of the year in a lower-rated classification and the rest of the year in a higher-rated classification.

Answer to Question No. 3: Such an employe is guaranteed in future years the compensation of the lower-rated classification for the number of months he worked in such classification in 1964 and the compensation of the higher-rated classification for the number of months he worked in such classification in 1964.

Question No. 4: What is the compensation guarantee of an employe who on October 1, 1964 held a regularly assigned relief position relieving on different positions with varying rates of pay?

Answer to Question No. 4: The incumbent of a regularly assigned relief position is guaranteed the respective rates of the various positions on which he relieved during 1964.

Question No. 5: If an employe such as the employe referred to in the preceding question is compelled to leave the regularly assigned relief position under conditions in which the guarantee of Article IV, Section 1, continues to apply, how will such guarantee then be computed?

Answer to Question No. 5: Such guarantee then shall be the weighted average of the rates of the positions on which he relieved during 1964.

Question No. 6: Is the foregoing answer applicable also to an employe who was working extra on October 1, 1964 and providing relief on different positions with varying rates of pay?

Answer to Question No. 6: No. Such employe's guarantee is computed under Article IV, Section 2.

Question No. 7: Are Express commissions to be included in determining the compensation guaranteed in Sections 1 and 2 of Article IV?

Answer to Question No. 7: No. Express commissions are not considered compensation as that term is used in this Agreement. Moreover, such adjustments as may be necessary when Express commissions are discontinued are subject to rules of the existing collective agreements. However, if an employe as a result of a transaction subject to the provisions of the February 7, 1965 Agreement is required to transfer from one position to another and the position to which transferred does not involve Express commissions, the provisions of the collective agreement which would have applied, had Express commissions been discontinued at the position from which transferred, will be applied in establishing a new rate on the position to which transferred.

Section 2 -

Question No. 1: In determining the base period earnings under Section 2 of Article IV, may compensation earned in more than one craft be included?

Answer to Question No. 1: Under defined conditions set forth in Question and Answer No. 9 of the Interpretation of Article I, Section 1, employes may qualify as protected employes on the basis of employment which includes service in specified kinds of crafts other than the craft in which the employe is to be protected. To the extent that an employe whose guarantee is governed by Section 2 of Article IV has compensated service in such other craft, such service will also be included in determining the base period average earnings and hours paid for. However, his base period average monthly earnings shall be computed by taking his average hourly earnings in the base period in the craft in which he is protected (adjusted to include subsequent general wage increases), multiplying by the total number of hours paid for in the base period in both crafts and dividing by 12. Correspondingly, in determing whether the compensation guarantee has been met by actual service paid for in any month after February 1965, and in determining any additional payment guaranteed, the earnings from actual service paid for will be considered to be the average hourly earnings for that month in the craft in which the employee is protected multiplied by the average hours paid for in both crafts in the base period.

Section 3 -

Question No. 1: If a "protected employe" for one reason or another considers another job more desirable than the one he is holding, and he therefore bids in that job even though it may carry a lower rate of pay than the job he is holding, what is the rate of his guaranteed compensation thereafter?

Answer to Question No. 1: The rate of the job he voluntarily bids in.

Question No. 2: If an employe such as the employe referred to in the preceding question is thereafter required to move or bid in a position under the terms of an implementing agreement made pursuant to Article III, what will be his guaranteed rate of compensation?

Answer to Question No. 2: Such employe will continue to be paid in accordance with Sections 1 or 2 of Article IV.

Question No. 3: Does this section affect the guaranteed compensation of an employe holding a regular assignment and who bids in a position with a higher rate of pay on a temporary basis, being entitled to return to the regularly assigned position at the conclusion of the temporary work?

Answer to Question No. 3: No. Such an employe continues to be guaranteed the compensation as determined by Section 1 or Section 2 of this Article.

Question No. 4: Does this section apply to affect the guaranteed compensation of an employe whose earnings are affected because an unprotected employe in the normal exercise of his seniority rights voluntarily or involuntarily bids in or bumps into a job?

Answer to Question No. 4: No.

Section 5 -

Question No. 1: Does an employe who is absent from service for any of the reasons set forth in this section lose his protected status?

Answer to Question No. 1: He does not lose his protected status but he is not entitled to the compensation guarantee provided in Article IV during the period of time that he is absent for the specified reasons. Upon his return to service he again becomes entitled to the full benefits of the Article.

Question No. 2: What are some examples of the types of information that carriers will furnish pursuant to this section?

Answer to Question No. 2: Both parties are obligated by this section to provide any data and information that may be necessary and appropriate to carry out the purposes of this agreement. In addition to the information concerning gross revenues and net ton miles discussed in connection with Article I, Section 3, carriers will now provide the organizations with respect to each craft lists of the employes who are protected under Section 1 of Article I and those protected as seasonal employes under Section 2 of Article I. Such lists with respect to employes protected under Section 1 of Article I will include information showing whether the employe's compensation is guaranteed under Section 1 or Section 2 of Article IV. In individual cases as they arise, the carriers will, on request, furnish information showing the normal rate of compensation of the position held on October 1, 1964 or the base period months, earnings and hours, depending on whether Section 1 or Section 2 of Article IV applies. With respect to seasonal employes covered by Section 2 of Article I, the list will show the period of seasonal employment in 1964 (including the days and hours so employed). In individual cases as they arise, the carriers will on request furnish the compensation paid with respect to such seasonal employment.

It is understood that these lists are for information purposes in carrying out the provisions of the agreement and will be subject to correction in case of errors.

ARTICLE V - MOVING EXPENSES AND SEPARATION ALLOWANCES

In the selection of protected employes who are required to transfer from one seniority district or roster to another as the result of the execution of an implementing agreement, the work at the new location will be offered to qualified employes in seniority order. It is contemplated that a sufficient number of qualified employes will be required to transfer but seniority rights will be respected so long as the objective respecting an adequate number of qualified employes is fulfilled. This interpretation in no way impairs the right of the carriers to furlough, in inverse seniority order, unprotected employes who are not needed.

Question No. 1: Are there any circumstances in which employes living in camp cars would be entitled to move their residence and be afforded the benefits of this Article?

Answer to Question No. 1: Where employes affected by an implementing agreement are expected to live in camp cars, that fact does not preclude the possibility that a change in residence may be required by the rearrangements provided for in the implementing agreement. In the event that the various points at which the camp cars will be located under the rearrangements are as accessible to the employe's residence as the locations were prior to the rearrangements, a change of residence would not be considered to be required; otherwise, the provisions of Article V are applicable.

Question No. 2: If there are more than one qualified protected employes available for a position to which an employe is required to transfer under this Article V, which employe, in the final analysis, must accept the transfer?

Answer to Question No. 2: The position at the new location will first be offered to the senior protected qualified employe. If he elects to decline such position and retain his present position or exercises seniority on another position in his home seniority district, the position will then be offered to other protected qualified employes in seniority order, with the understanding that the junior qualified protected employee must accept the position which is offered.

In the application of this interpretation the following is understood:

(a) No failure of a junior qualified protected employe to accept the position which is offered occurring before the date of these interpretations, nor thereafter for a period not exceeding 30 days from the date of the execution of this document, shall adversely affect the protection or seniority rights of such employe except as may be provided in the working agreement.

(b) If the junior qualified protected employe refuses or has refused to accept, as required by this interpretation, the position which is offered such refusal shall not operate to impose any obligation on any senior employe who has previously declined the offer of such position. If more than one such position is involved, each position shall be treated separately for purposes of this interpretation.

Question No. 3: Does the senior employe or employes who remain on the home seniority district, under the circumstances set forth herein above, lose their protection?

Answer to Question No. 3: No.

ARTICLE VI - APPLICATION TO MERGERS, CONSOLIDATIONS AND OTHER AGREEMENTS

Section 3 -

Question No. 1: What is the purpose and operation of this Section?

Answer to Question No. 1: This Section is designed to provide the protection of the Washington Job Protection Agreement in cases of "coordination" as defined in said Washington Job Protection Agreement to employes who are not protected under the provisions of the February 7, 1965 Agreement. In addition, the procedural provisions of the February 7, 1965 Agreement are substituted for Section 13 of the Washington Job Protection Agreement insofar as disputes are concerned that may arise subsequent to the effective date of the February 7, 1965 Agreement.

General Question: Do these interpretations apply to the provisions of agreements that have been entered into subsequent to February 7, 1965?

Answer: No.

HANDLING OF CLAIMS OR GRIEVANCES

Rules and procedures governing the handling of claims or grievances including time limit rules, shall not apply to the the handling of questions or disputes concerning the meaning or interpretation of the provisions of the February 7, 1965 Agreement. Such questions or disputes may be handled at any time and may be taken up directly between the General Chairman and the highest operating officer of the carrier designated to handle such matters.

Individual claims for compensation alleged to be due pursuant to the Agreement shall be handled in accordance with the rules governing the handling of claims and grievances, including time limit rules, provided that the time limit on claims involving an interpretation of the Agreement shall not begin to run until 30 days after the interpretation is rendered.

Signed at Chicago, Illinois, this 24th day of November, 1965.

For the Carriers:

E H Hallman

Chairman, Western Carriers'
Conference Committee

W. S. Macgill

Chairman, Southeastern Carriers'
Conference Committee

J. W. Oram

Chairman, Eastern Carriers'
Conference Committee

Approved:

J E Wolfe

Chairman, National Railway Labor
Conference

WITNESS:

Francis A. O'Neill

Member,
National Mediation Board

Employes' National Conference
Committee, Five Cooperating Railway
Labor Organizations:

G. E. Leighty

Chairman

Brotherhood of Railway and Steamship
Clerks, Freight Handlers, Express
and Station Employes

C L Dennis

Grand President

Brotherhood of Maintenance of Way
Employes

H. C. Crotty

President

Transportation-Communications Employees
Union

G. E. Leighty

President

Brotherhood of Railroad Signalmen

Jesse Clark

President

Hotel & Restaurant Employes and
Bartenders International Union

Richard W Smith

International Vice President

NATIONAL MEDIATION BOARD
WASHINGTON, D.C. 20572

cc Jno Leper

November 18, 1966

From: Thomas A. Tracy
Executive Secretary

Attached are copies of the Rules pertaining to Special Adjustment Boards as adopted by the National Mediation Board and appearing in the Federal Register November 16, 1966.

Additional copies of the Rules will be available when received from the Government Printing Office.

Attachments

Title 29—LABOR

Chapter X—National Mediation Board

PART 1207—ESTABLISHMENT OF SPECIAL ADJUSTMENT BOARDS

On pages 13946 and 13947 of the FEDERAL REGISTER of November 1, 1966, there was published a notice of proposed rule making to issue rules governing the establishment of special adjustment boards upon the request of either representatives of employees or of carriers to resolve disputes otherwise referable to the National Railroad Adjustment Board. Interested persons were given an additional ten (10) days to submit written comments, suggestions, or objections regarding the proposed rules which had first appeared at pages 10697 and 10698 of the FEDERAL REGISTER of August 11, 1966, and had then appeared subsequently in the FEDERAL REGISTER of October 12, 1966 at pages 13176 and 13177.

No objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date. These regulations shall become effective upon their publication in the FEDERAL REGISTER.

THOMAS A. TRACY,
Executive Secretary.

Sec.
1207.1 Establishment of special adjustment boards (PL Boards).
1207.2 Requests for Mediation Board action.
1207.3 Compensation of neutrals.
1207.4 Designation of PL Boards, filing of agreements, and disposition of records.

AUTHORITY: The provisions of this Part 1207 issued under the Railway Labor Act, as amended (45 U.S.C. 151-163).

§ 1207.1 Establishment of special adjustment boards (PL Boards).

Public Law 89–456 (80 Stat. 208) governs procedures to be followed by carriers and representatives of employees in the establishment and functioning of special adjustment boards, hereinafter referred to as PL Boards. Public Law 89–456 requires action by the National Mediation Board in the following circumstances:

(a) *Designation of party member of PL Board.* Public Law 89–456 provides that within thirty (30) days from the date a written request is made by an employee representative upon a carrier, or by a carrier upon an employee representative, for the establishment of a PL Board, an agreement establishing such a Board shall be made. If, however, one party fails to designate a member of the Board, the party making the request may ask the Mediation Board to designate a member on behalf of the other party. Upon receipt of such request, the Mediation Board will notify the party which failed to designate a partisan member for the establishment of a PL Board of the receipt of the request. The Mediation Board will then designate a representative on behalf of the party upon whom the request was made. This representative will be an individual associated in interest with the party he is to represent. The designee, together with the member appointed by the party requesting the establishment of the PL Board, shall constitute the Board.

(b) *Appointment of a procedural neutral to determine matters concerning the establishment and/or jurisdiction of a PL Board.* (1) When the members of a PL Board constituted in accordance with paragraph (a) of this section, for the purpose of resolving questions concerning the establishment of the Board and/or its jurisdiction, are unable to resolve these matters, then and in that event, either party may ten (10) days thereafter request the Mediation Board to appoint a neutral member to determine these procedural issues.

(2) Upon receipt of this request, the Mediation Board will notify the other party to the PL Board. The Mediation Board will then designate a neutral member to sit with the PL Board and resolve the procedural issues in dispute. When the neutral has determined the procedural issues in dispute, he shall cease to be a member of the PL Board.

(c) *Appointment of neutral to sit with PL Boards and dispose of disputes.* (1) When the members of a PL Board constituted by agreement of the parties, or by the appointment of a party member by the Mediation Board, as described in paragraph (a) of this section are unable within ten (10) days after their failure to agree upon an award to agree upon the selection of a neutral person, either member of the Board may request the Mediation Board to appoint such neutral person and upon receipt of such request, the Mediation Board shall promptly make such appointment.

(2) A request for the appointment of a neutral under paragraph (b) of this section or this paragraph (c) shall:

(i) Show the authority for the request—Public Law 89–456, and

(ii) Define and list the proposed specific issues or disputes to be heard.

§ 1207.2 Requests for Mediation Board action.

(a) Requests for the National Mediation Board to appoint neutrals or party representatives should be made on NMB Form 5.

(b) Those authorized to sign request on behalf of parties:

(1) The "representative of any craft or class of employees of a carrier," as referred to in Public Law 89–456, making request for Mediation Board action, shall be either the General Chairman, Grand Lodge Officer (or corresponding officer of equivalent rank), or the Chief Executive of the representative involved. A request signed by a General Chairman or Grand Lodge Officer (or corresponding officer of equivalent rank) shall bear the approval of the Chief Executive of the employee representative.

(2) The "carrier representative" making such a request for the Mediation Board's action shall be the highest carrier officer designated to handle matters arising under the Railway Labor Act.

(c) Docketing of PL Board agreements: The National Mediation Board will docket agreements establishing PL Board, which agreements meet the requirements of coverage as specified in Public Law 89–456. No neutral will be appointed under § 1207.1(c) until the agreement establishing the PL Board has been docketed by the Mediation Board.

§ 1207.3 Compensation of neutrals.

(a) *Neutrals appointed by the National Mediation Board.* All neutral persons appointed by the National Mediation Board under the provisions of § 1207.1 (b) and (c) will be compensated by the Mediation Board in accordance with legislative authority. Certificates of appointment will be issued by the Mediation Board in each instance.

(b) *Neutrals selected by the parties.* (1) In cases where the party members of a PL Board created under Public Law 89–456 mutually agree upon a neutral person to be a member of the Board, the party members will jointly so notify the Mediation Board, which Board will then issue a certificate of appointment to the neutral and arrange to compensate him as under paragraph (a) of this section.

(2) The same procedure will apply in cases where carrier and employee representatives are unable to agree upon the establishment and jurisdiction of a PL Board, and mutually agree upon a procedural neutral person to sit with them as a member and determine such issues.

§ 1207.4 Designation of PL Boards, filing of agreements, and disposition of records.

(a) *Designation of PL Boards.* All special adjustment boards created under Public Law 89–456 will be designated PL Boards, and will be numbered serially, commencing with No. 1, in the order of their docketing by the National Mediation Board.

(b) *Filing of agreements.* The original agreement creating the PL Board under Public Law 89–456 shall be filed with the National Mediation Board at the time it is executed by the parties. A copy of such agreement shall be filed by the parties with the Administrative Officer of the National Railroad Adjustment Board, Chicago, Ill.

(c) *Disposition of records.* Since the provisions of section 2(a) of Public Law 89–456 apply also to the awards of PL Boards created under this Act, two copies of all awards made by the PL Boards, together with the record of proceedings upon which such awards are based, shall be forwarded by the neutrals who are members of such Boards, or by the parties in case of disposition of disputes by PL Boards without participation of neutrals, to the Administrative Officer of the National Railroad Adjustment Board, Chicago, Ill., for filing, safekeeping, and handling under the provisions of section 2(q), as may be required.

[F.R. Doc. 66–12451; Filed, Nov. 16, 1966; 8:47 a.m.]

A. PHILIP RANDOLPH
International President

BENNIE SMITH
1st International Vice-President
1308 Broadway, Room 305
Detroit, Michigan 48226

C. L. DELLUMS
2nd International Vice-President
1716 Seventh Street
Oakland, California 94607

BROTHERHOOD of SLEEPING CAR PORTERS

Train, Chair Car, Coach Porters and Attendants
AN INTERNATIONAL UNION
Affiliated with the AFL-CIO/CLC

SOUTH-WEST ZONE HEADQUARTERS
GATEWAY NATIONAL BANK BUILDING
3412 NORTH UNION BOULEVARD
ST. LOUIS, MISSOURI 63115
EVergreen 3-4221

WILLIAM H. BOWE
International Secretary-Treasurer

T. D. McNEAL
3rd International Vice-President
Gateway National Bank Building
3412 North Union Boulevard
St. Louis, Missouri 63115

B. F. McLAURIN
Eastern Zone Supervisor
217 West 125th Street
New York, N. Y. 10027

Certified Mail
Return Receipt Requested
115722

March 15, 1967

Mr. H. J. Bailey, Supt.
Union Pacific Railroad Company
Pocatello, Idaho 83201

Dear Sir:

As the duly authorized representatives of Chair Car Attendant J. McCully of Pocatello and pursuant to the provisions of Rule 27, Part 11, Paragraph (j) of the current Agreement, we are herewith filing the following claim for and in behalf of Chair Car Attendant McCully:

STATEMENT OF CLAIM

That the Union Pacific Railroad Company should pay Chair Car Attendant J. McCully for an additional 47 hours and 50 minutes at one-half of the pro rata hourly rate for time actually worked and properly credited during the month of January, 1967, in accordance with the provisions of Rules 2, 3, 4, 5 and 7 of the existing Agreement (as revised by Memorandum of Agreement signed at Omaha, March 10, 1964).

STATEMENT OF FACTS

J. McCully is a chair car attendant employed by the Union Pacific Railroad Company and works out of that carrier's Pocatello, Idaho terminal.

During the period involved in this claim (the month of January, 1967, Mr. McCully was regularly assigned to Trains Nos. 18 and 17 between Pocatello and Green River

[1967]

On his regular assignment during the month of January, 1967, Mr. McCully accumulated a total of 203 hours and 10 minutes time actually worked.

Mr. McCully arrived in Pocatello (his home terminal) in his regular assignment on Train No. 17 on Tuesday, January 3, 1967, and was released from duty at 10:50 A. M. Under the scheduled and bulletined operation of his regular assignment, Mr. McCully was entitled and due to rest at his home terminal from 10:50 A. M. on Tuesday, January 3, 1967, until 5:25 P. M. on Thursday, January 5, 1967, at which latter time he was regularly scheduled to, and did, report for duty on his regular assignment on Train No. 18 to make his regularly assigned round trip to Green River and return.

However, upon his arrival and release at Pocatello at 10:50 A. M. on January 3, 1967, (and at which time his regularly scheduled rest period should have begun) the Union Pacific Railroad called, assigned and required him to return to duty immediately on Train No. 17 for the purpose of making a round trip on Trains Nos. 17 and 18 from Pocatello to Huntington and return in another man's regular assignment. The regularly assigned man on the Pocatello-Huntington run had been used on a special train from Pocatello to Los Angeles. On this round trip from Pocatello to Huntington and return Mr. McCully actually worked a total of 18 hours and 45 minutes (8'45" outbound and1[illegible]0'inbound).

Again, on January 14, 1967, Mr. McCully departed Pocatello for Green River on Train No. 18 on the second round trip of a two trip cycle after which he was scheduled to return to Pocatello on Sunday, January 15, for a scheduled rest period ending on the evening of Tuesday, January 17, 1967.

However, upon being released at Green River at 11:40 P. M. on Saturday, January 14, 1967, the Union Pacific Railroad called, assigned and required Mr. McCully to make a round trip from Green River to Huntington and return to Green River on Trains Nos. 17 and 18 (going through his home terminal in both directions) reporting for duty at Green River at 3:40 A. M., just

4 hours and 10 minutes after his release at the away-from-home terminal. On this round trip, through his home terminal in each direction, Mr. McCully actually worked a total of 30 hours and 20 minutes (16'10" outbound and 14'10" inbound).

Mr. McCully was released from the fore-going round trip through his home terminal at Green River at 11:40 P. M. on Monday, January 16. He was required to report on Train No. 17 at 3:40 A. M. on January 17 (just 4 hours later) for the trip back to his home terminal, at 9:50 A. M. on January 17, 1967. He was required to protect his own regular assignment on Trains Nos. 18 and 17 by reporting and going back on duty the same day (January 17) on Train No. 18 at 5:25 P. M. for his regularly assigned round trip to Green River and return.

Rules 5 and 7 of the current Agreement read as follows:

"RULE 5. OVERTIME. (a) Time actually worked in excess of 184 hours in a calendar month shall be paid for on the minute basis at one and one-half times the pro rata hourly rate. Time paid for but not actually worked (such as but not limited to time intervening between the time preparatory work if any required is completed and the time of actually beginning work on train on which actual work is to be performed) shall not be considered as time worked within the meaning of this Section (a).

(b) Time paid for in the nature of arbitraries, extra or special allowances (this including but not limited to: 1. deadhead allowances, 2. called and not used, 3. time held at other than home terminal, 4. attending court for inquest (Witness service) at the request of the company, 5. vacations, etc.) will not be used for the purpose of calculating overtime pay under this Rule 5. No rule or combination of agreement rules will be so applied as to require payment of more than time and one-half for time actually worked in excess of 184 hours in any calendar month.

(c) It is recognized that the company has the continuing right to arrange and rearrange assignments or runs as may be necessary at any time to avoid the punitive payment provided in (a) of this rule."

"RULE 7. ADDITIONAL PAY WHEN USED ON LAYOVER OR RELIEF DAYS. A regularly assigned employe required to perform service on specified layover or relief day shall be compensated therefor in addition to all other earnings for the month."

When, during the month of February, 1967, Mr. McCully received his pay check for the last pay period of January, 1967, he found that the check was considerably short. Upon contacting the carrier's Time-Keeper, McCully found that he and the carrier were in agreement on the fact that he had actually worked a total of 251 hours, on direct orders from the carrier, during the month of January, 1967.

However, the Time-Keeper contended that the 47 hours and 50 minutes the Carrier agreed had been actually worked on assignments other than his own, on orders from the carrier, on his layover or rest days could not be taken into consideration for the purpose of calculating overtime under Rule 5. The Time-Keeper formally disallowed the time and one-half claimed by McCully in connection with work performed under orders from the carrier on assignments other than his own by handing to the employes' Local Chairman on March 1, 1967, a note reading as follows:

" Poca. 3-1-67

J. McCully's time for Jan. 1967

Extra trips made on his days off 47:50 paid at straight time rate

(This time has nothing to do with overtime or guarantee)

203:10 made on regular assigned runs for which he was paid 184 hours at straight time plus 19:10 overtime rate.

Timekeeper"

> For the record, the employes wish to direct attention to the fact that a claim on all fours with the instant claim, filed for and in behalf of Chair Car Attendant Earl Morgan of Los Angeles under date of November 17, 1966, was allowed and paid by Union Pacific Superintendent R. D. Smith in a decision dated December 12, 1966.
>
> POSITION OF EMPLOYES
>
> It is the position of the employes that the rules of the existing Agreement on which this claim is based clearly and unequivocally contemplate and require that the carrier pay chair car attendants on a minute basis at one and one-half times the basic pro rata hourly rate for all time actually worked in excess of 184 hours during a calendar month.

We therefore request that the claim set forth herein be granted. Please address your reply to the undersigned.

Very truly yours

Brotherhood of Sleeping Car Porters

By______________________________
T. D. McNeal
International Vice President

TDM/op

cc: Mr. C. F. Woods

April 18, 1967

Mr. I. J. Gromfine
Labor Bureau of Middle West
Madison Office Building
1155 Fifteenth Street, N.W., Suite 713
Washington, D. C. 20005

Dear Sir:

Enclosed please find photostatic copies of Telegrams re Case 67-28 as requested.

Sincerely yours,

A. Philip Randolph
International President

APR:mr
Enclosures

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

815 SIXTEENTH STREET, N.W.
WASHINGTON, D.C. 20006

PHONE: NATIONAL 8-3870

EXECUTIVE COUNCIL

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DAVID SULLIVAN
GEORGE BURDON
WILLIAM POLLOCK

April 3, 1967

Mr. A. Philip Randolph, International President
Brotherhood of Sleeping Car Porters
217 West 125th Street
New York, New York 10027

Re: Case No. 67-28
Pennsylvania Railroad

Dear Sir and Brother:

This is to acknowledge your letter of March 30 in which you file a complaint under Article XXI of the AFL-CIO Constitution against the Transport Workers Union of America in the above captioned case.

In view of the fact that this matter has been pending since January, this is to advise that mediation is being waived and I am referring this matter directly to Impartial Umpire David Cole for a hearing and determination. The hearing is scheduled for April 18, 1967, at 10:30 A.M., at the American Arbitration Association, 140 West 51st Street, New York City. Please advise who will represent your organization at this hearing.

Sincerely and fraternally,

Geo. Meany

President

cc: Mr. David Cole

RECEIVED
APR 5 1967
OFFICE OF THE PRESIDENT

CLASS OF SERVICE
This is a fast message unless its deferred character is indicated by the proper symbol.

WESTERN UNION

W. P. MARSHALL
CHAIRMAN OF THE BOARD

TELEGRAM

R. W. McFALL
PRESIDENT

SYMBOLS
DL=Day Letter
NL=Night Letter
LT=International Letter Telegram

The filing time shown in the date line on domestic telegrams is LOCAL TIME at point of origin. Time of receipt is LOCAL TIME at point of destination

GPA086 (05)AA223 = (05) =

N A WA361 PD 1 EXTRA =FAX WASHINGTON DC 7 238P EST :

1967 APR 7 PM 4 38

=A PHILIP RANDOLPH, PRESIDENT, BRO OF
SLEEPING CAR PORTERS =
217 WEST 125 ST NYK =

RE CASE 67-28 (PENNSYLVANIA RAILROAD) TRANSPORT WORKERS EXECUTIVE COUNCIL MEETING WEEK OF 18TH. REQUEST FOR POSTPONEMENT OF HEARING BEFORE UMPIRE COLE SCHEDULED FOR APRIL 18 GRANTED. WILL RESCHEDULE AT LATER DATE AND YOU WILL BE ADVISED ACCORDINGLY =

GEORGE MEANY PRESIDENT AFL-CIO =

Telefax **WESTERN UNION** Telefax

SENDING BLANK 4/13/67

CALL LETTERS FCL FAST CHARGE TO BROTHERHOOD OF SLEEPING CAR PORTERS

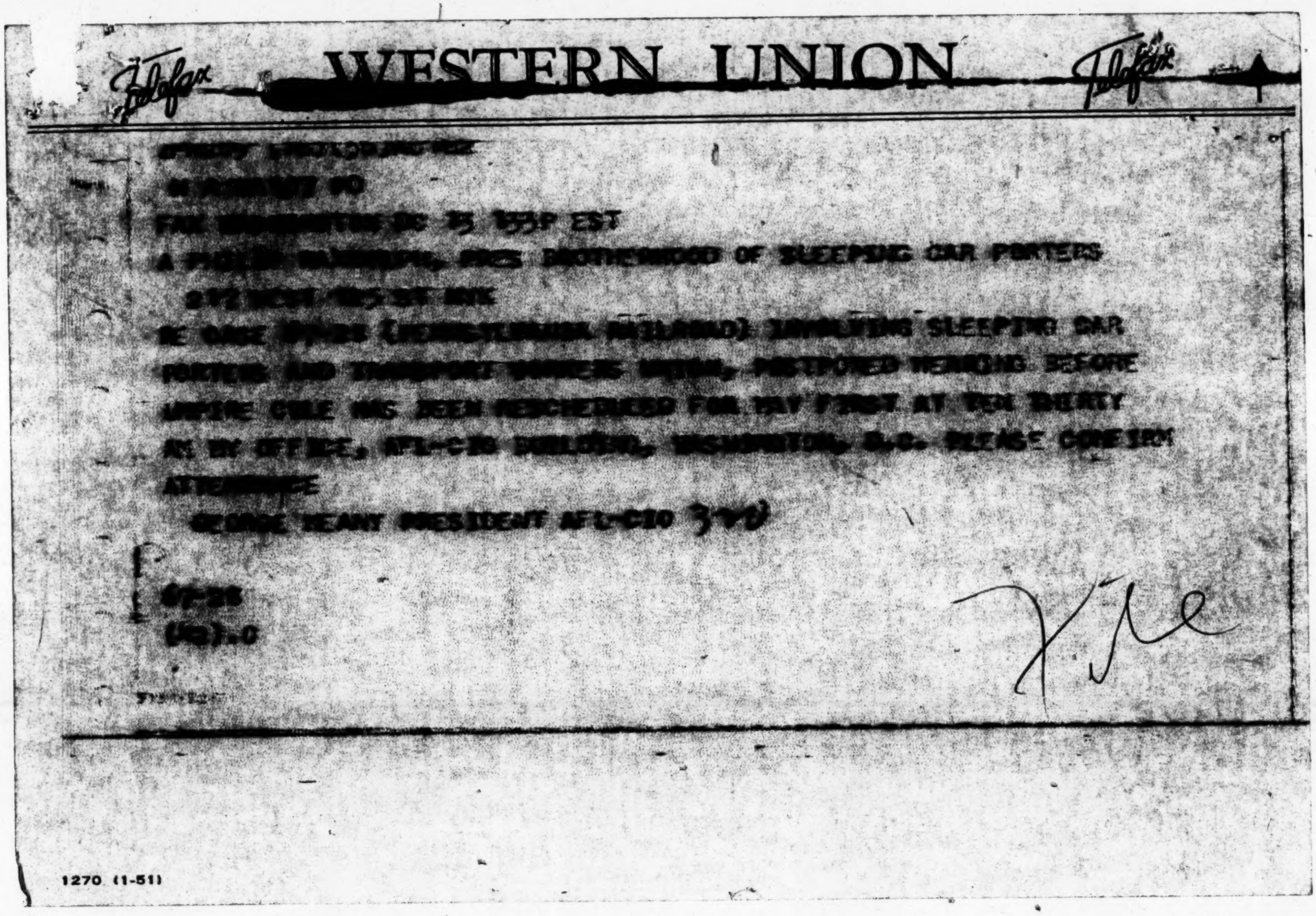
MR. GEORGE MEANY, PRESIDENT AFL-CIO
AFL-CIO BUILDING
815 SIXTEENTH STREET, N.W.
WASHINGTON, D.C.

RECEIVED TELEGRAM SETTING DATE MAY FIRST AT TEN THIRTY AM IN YOUR OFFICE RE CASE 67-28 PENNSYLVANIA RAILROAD INVOLVING SLEEPING CAR PORTERS AND TRANSPORT WORKERS UNION. REPRESENTATIVES OF THE BROTHERHOOD OF SLEEPING CAR PORTERS WILL BE ON HAND FOR HEARING BEFORE UMPIRE COLE.

A. PHILIP RANDOLPH
INTERNATIONAL PRESIDENT

Send the above message, subject to the terms on back hereof, which are hereby agreed to

PLEASE TYPE OR WRITE PLAINLY WITHIN BORDER—DO NOT FOLD
1269—(R 4-55)



WESTERN UNION

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FAX WASHINGTON DC 25 155P EST

A PHILIP RANDOLPH, PRES BROTHERHOOD OF SLEEPING CAR PORTERS
217 WEST 125 ST NYK

RE CASE [illegible] (PENNSYLVANIA RAILROAD) INVOLVING SLEEPING CAR PORTERS AND TRANSPORT WORKERS UNION, POSTPONED HEARING BEFORE UMPIRE COLE HAS BEEN RESCHEDULED FOR MAY FIRST AT TEN THIRTY AM MY OFFICE, AFL-CIO BUILDING, WASHINGTON, D.C. PLEASE CONFIRM ATTENDANCE

GEORGE MEANY PRESIDENT AFL-CIO

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File

1270 (1-51)

Study of Passenger problem

The Railroad Club
Student Activities Office
South Hall
University of California
Davis, California 95616
April 28, 1967

The Honorable William Tucker
Interstate Commerce Commission
Washington, D.C.

Dear Sir:

We request that the Interstate Commerce Commission undertake an investigation of the adequacy of rail passenger service between California and Oregon. We enclose a report which demonstrates the need for this investigation.

At the very time when the United States is underwriting a multibillion dollar program for the construction of a new generation of transport aircraft which may not prove economically sound, an already existing transportation resource which plays a significant role in a balanced plan of national transport is decaying, and will disintegrate completely in the next few years unless prompt action is taken by the government.

It is our contention that existing rail service, especially in the California-Oregon corridor, is essential to the national interest, and if proper action is taken, can be of high significance to the nation's total transportation plan.

Sincerely,

Frank Heppner
Frank Heppner

Glenn C. Lee, J.
Glenn Lee

Tom Matoff

Greg Thompson
Greg Thompson

M

A Call for an Investigation of the Adequacy of Rail Passenger Service Between California and Oregon

Summary

Evidence is presented in this report that service on the Southern Pacific's Shasta route has deteriorated in ways that are not strictly connected with economy. Pre-war cars are used on the Shasta Daylight, while the cars built for the train are used on mail trains. The Shasta Daylight averages 36 minutes late in Summer, and is on time only 25% of the time. The schedule of the Shasta Daylight has been lengthened an hour and a half since 1951, and the arrival time at the terminals is after 1:00 a.m. <Passengers have been left on the station platform because there is no reservation system. Little or no announcement is made of the running of the Shasta Daylight. Passenger trains are routinely made to wait for freight trains. There is no public advertising.>

An investigation into Oregon-California passenger train service is called for, and suggestions for the economical improvement of service are made. It is contended that existing trains can be run at a break-even point on an out-of-pocket expenses basis.

<It is argued that passenger trains still make sense in 1967, and can successfully compete with other modes of travel for passengers.>

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Introduction

In 1965, a group of students at the University of California, Davis formed a Railroad Club. The original purpose of this club was to present programs on railroad subjects. It quickly became apparent that most members were interested in passenger trains. It also was apparent that in California, every year meant fewer passenger trains to be ridden and enjoyed.

An interest in passenger trains is not unusual among "railfan" groups, but this interest is customarily expressed in refurbishing old cars, and running special charter trips. The students at Davis instead concentrated on existing regularly scheduled passenger service. It became obvious to the students, whose aggregate train travel mileage numbered in the hundreds of thousands of miles, that the Southern Pacific Company, a principal carrier in California, was embarked on a program of eliminating passenger trains entirely, and was bent upon accomplishing this end within the next few years. The authors of this report, all members of the Railroad Club, resolved to investigate this situation, and oppose the ill-considered abandonment of passenger trains.

Students are in a unique position to gather information of this nature. We can talk to employees freely, without the psychological barrier imposed by the official character of a government investigator. Our hours are irregular, so we can monitor the activities of the railroad with considerable latitude. Collectively, we have an extensive knowledge of passenger operations and history, and are "amateurs" only in the sense that we are not paid for our knowledge. It is with these resources at our command that we present this call for an investigation of rail passenger service between California and Oregon. and the rail passenger business [illegible]

We selected California-Oregon service only because we have the most information on this route. We feel that an investigation of the entire Southern Pacific passenger operation is both desirable and necessary, but a suitable starting place is represented by this service.

We feel that existing rail passenger service is still vital to the nation's transportation needs, and that the retention and improvement of existing service can save incalculable amounts of money in avoiding the rebuilding of the service some time in the future.

The Shasta Route

The Shasta Route of the Southern Pacific Railroad extends from San Francisco to Portland. Passenger service between Oregon and California was innaugurated in 1887, but it was not until 1926 that the Cascade Line over which contemporary passenger trains run, was opened. Previous to the opening of the Cascade Line, principal trains moved over the Siskiyou Line to the west (map 1), which is now freight-only.

Shasta route passengers begin their trip from the Third and Townsend Street Station in San Francisco, which is located in a slum-industrial area. Until 1958, travelers left from the Ferry Building, taking a boat ride across San Francisco Bay to the Oakland Pier, where the trains were loaded. Passengers now board buses at the Third and Townsend Station, and are deposited at the 16th Street Station in Oakland, where the train is boarded. Due to the vagaries of traffic across the Bay Bridge, this step of the journey takes two minutes longer than it did in 1950. The boat ride was an attractive highlight of the trip.

To the best of our knowledge, no effort was made by the railroad to investigate the possibility of using smaller, more economical boats instead of buses, when the old large boats became too expensive to operate.

From Oakland, trains move on the double-track Overland main line through the industrial areas of the East Bay region, stopping at Berkeley and Richmond. From Richmond, the train skirts the edge of San Francisco Bay to Martinez, stopping at Crockett. The traffic along this stretch of line is very high, funneling Tehachapi Line trains from the south, Overland Line trains from the east, and Shasta Line trains from the north into the bay area.

At Martinez, the Tehachapi Line branches off, and Shasta route trains cross the double-track Carquinez bridge, and proceed through rolling, low hills and agricultural land to Davis, where the Shasta route branches from the double track Overland Line, and becomes single track line to Portland.

The density of traffic on the Shasta Line is relatively high, and most of the line is controlled by Centralized Traffic Control (CTC). The number of sidings has been reduced to a point which is incompatible with the maintenance of a passenger train schedule, in our opinion (see section on sidings).

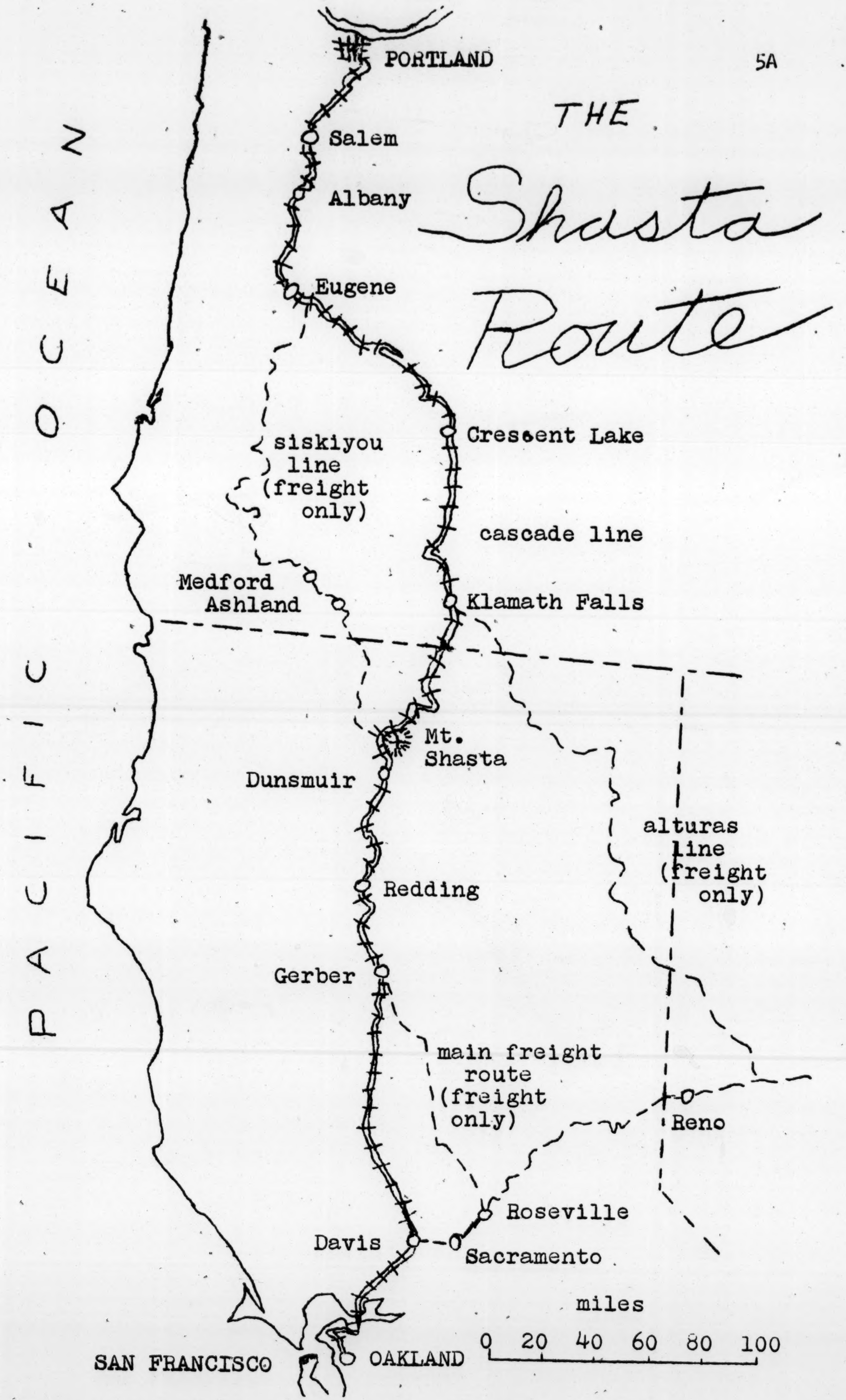
From Davis, where the trains pick up passengers from Sacramento who have arrived by bus, trains pass through flat agricultural land for 157 miles to Redding. At Redding, the trains begin their climb into the surpassingly beautiful mountain country which is the outstanding feature of the line. The automobile has intruded but little into this area, and travelers can enjoy unspoiled mountain scenery as yet unblighted by high speed freeways, and their accompanying commercial developments.

Trains pass under the shadow of Mt. Shasta for 70 miles, then cross the Oregon border and stop at Klamath Falls. Bus connections are available for southbound travelers wishing to go to Crater Lake National Park, but the connection for northbound passengers is no longer available, having been discontinued in 1965.

From Klamath Falls, the trains wind northward through some of the finest scenery in North America to Eugene, which is at the southern tip of the agricultural Willamette Valley. The trip through the valley is pleasant, with stops being made at Albany and Salem, and the trip concludes at Union Station in Portland. Connections are available here via GN, NP, UP, and SP&S to northern and eastern points.

The Shasta Route is currently figured at 715 miles from San Francisco to Portland, line changes having slightly reduced the distance of 718 miles reported in 1950. There is CTC from Portland to Gerber. Approximately 311 miles are in flat country where the terrain imposes no speed restrictions. Some sections are laid with ribbonrail, and the remainder ranges from excellent to poor trackwork, and no generalizations can be made.

The corporate and constructional history of this line is complex, being an amalgamation of smaller companies gathered under the aegis of E. H. Harriman at the turn of the century, and added to the Central Pacific combine. A complete account serves no purpose here, but can be found in the corporate history section of "A Century of Southern Pacific Steam Locomotives," by Guy L. Dunscomb.


THE
Shasta
Route
PORTLAND
Salem
Albany
Eugene
Cresent Lake
siskiyou line (freight only)
cascade line
Medford
Ashland
Klamath Falls
PACIFIC OCEAN
Mt. Shasta
Dunsmuir
alturas line (freight only)
Redding
Gerber
main freight route (freight only)
Reno
Roseville
Davis
Sacramento
miles
0 20 40 60 80 100
SAN FRANCISCO
OAKLAND

The Shasta Route Trains

Inauguration of the Shasta Daylight runs in July, 1949 marked the beginning of great improvements in daytime passenger service on the Shasta Route. Before July, 1949, the Shasta route was served by trains 15-60 and 59-16, the West Coast, which operated through from Portland to Los Angeles via Davis.

These West Coast trains were operated with non-streamlined equipment, and required two nights en route from Portland to Los Angeles. Upon the inauguration of Shasta Daylight service, the West Coast trains were terminated in Sacramento, and were not operated to Davis. To provide through passenger service to Los Angeles, the schedules of the Owl overnight trains (57 and 58) were synchronized with those of the Shasta Daylight, southbound passengers changing to the Owl trains at Martinez; and northbound passengers transferring at the Oakland Mole until July, 1958 when ferry service was ended between Oakland and San Francisco. Northbound passengers transferred to the Shasta trains at Oakland 16th Street Station until a 1963 schedule change when the change was made at Martinez.

Southern Pacific officials at the Second Shasta abandonment hearings estimated that one-fourth of the passengers on the Shasta Daylight were bound to or from the Owl trains at Martinez or Oakland.

Thus the gradual reduction of service on the Owl trains has been reflected somewhat in Shasta Daylight patronage. Dining and lounge cars on the Owl were replaced in 1955 with a hamburger-grill car and in 1960 with an automat car.

Decline in service

Overnight service on the Shasta route was improved greatly in August, 1950 when the streamlined Cascades were placed in service.

The new Cascades carried a normal consist of eight Pullman cars, two coaches, and the triple-unit "Cascade Club" cars, which featured a lounge car, a dining room car and kitchen and crew facilities in a third car. These luxurious units, which featured hidden articulation, sported thick rugs, snowy white linen in the dining section, and for a brief period, telephones.

Plus L
equip
[illegible]

Pullman sleeping car equipment on the new Cascades was among the very best. All space was fully enclosed room space and a wide choice of accommodations was available. Of the eight regularly scheduled cars, four were operated through to Seattle on trains of the Union Pacific and Northern Pacific railways.

Four of the eight Pullmans were 10-6's, with 10 roomettes and six double bedrooms. Two of the cars carried 22 roomettes. One car featured 12 double bedrooms. The most luxurious car carried four double bedrooms, four compartments and two drawing rooms.

The drawing room - compartment service was ended in 1963, and through Pullman car service to Seattle was ended January 15, 1966.

The Cascade trains still operate; and SP officials admit that there has been steady patronage on these runs for 10 years. However, the schedule of the Cascade has been lengthened one hour in the last three years, and dining car service has been replaced by coffee shop service; this means no tablecloths, and only a small selection on the menu.

Down
Grading
of Service

A third set of trains operated on the Shasta route until April, 1965. These runs were trains 19-20, which had formerly been called the Klamath. The Klamath carried sleeping cars and a diner-lounge car until 1956. Following 1956, it carried large amounts of baggage and mail.

The consist of the Klamath in recent years was one to two passenger coaches, and 8-12 "head-end" (baggage, mail and express) cars. At abandonment proceedings held in 1965, SP officials, as well as the ICC examiner, admitted that the train had been profitable, even under the SP system of bookkeeping. However, SP had moved large amounts of traffic from trains 19-20 to piggyback trains, thus creating a loss from which an abandonment application might be supported by the ICC.

In Davis, SP officials admitted privately that the trains had been making money, but they wanted to remove them anyway, on the grounds they wanted to clear more track capacity for freight runs, which had increased 50 per cent in 10 years, by admission of SP officials at the Third Shasta Hearing in October, 1965.

In 1958, then, the passenger train rider between the Bay Area and Portland had his choice of three north-south runs; two of them considered "luxury" in every respect; and one run which was comfortable and safe, and offered meal stops much like those of long-distance bus service.

Following the insertion of large newspaper advertisements in the San Francisco newspapers in December, 1958, SP announced it would place the Shasta Daylight on tri-weekly service during the "off-peak" periods of the year running from January 15 to May 28 and from September 15 to December 14. A previous attempt to operate tri-weekly service, announced in September, 1956, was denied by the California State PUC.

The 1958 posting listed a change in service under the terms of the Smathers Act of 1958, which gave the ICC original jurisdiction over abandonment applications for interstate trains.

Eliminating trains

The January 15 date was suspended, and the Shasta trains continued daily operation until May 14, 1959. Permission to operate tri-weekly service was granted; and SP inaugurated tri-weekly service on May 15. A total of 427 reservations were cancelled on the 15 trips which were not operated before daily service was re-established on May 29 for the summer season. Large advertisements in the San Francisco papers heralded the cutback in service.

William Settle, assistant in the office of D. J. Russell, then president and now chairman of SP lines, confided to one of us (GL) in 1964 that the company had planned to end Shasta runs a few years following the inauguration of tri-weekly service, but decided to keep the train to serve travelers en route to the Seattle World's Fair, which ran from April 21 to October 21 of 1962.

Although by this time the overnight connection from Portland to Seattle had been ended, many travelers elected to stay overnight in Portland so as to be able to ride the Daylight runs; and business was heavy at that time, despite a lengthened schedule.

The Seattle Fair closed on October 21. Less than a month later, on November 15, 1962, parlor car service was ended, and an automat car replaced the coffee shop car, (full dining car service on the Shasta Daylight had ended in 1956).

This forced all passengers into coach seats, and into purchasing automat food. Although the automat was defended at the Second Shasta Hearings in February, 1964 as equivalent to airline food, passenger comments indicated that this was not true. Also to be considered is the fact that very few passengers are aboard an airliner 15 hours, as they are aboard the Shasta trains.

The automat car was replaced during the Christmas season of 1962-1963 and 1963-1964 with a coffee shop car. The coffee shop car also operated during the summer of 1963.

A drop in patronage took place following 1962. This can be accounted for by 1) a normal decline following high usage to the World's Fair, 2) the threat of railroad strikes during the summer of 1963, with at least three "strike dates" set by railroad brotherhoods, and 3) the reduced service facilities aboard the train.

In December of 1963, abandonment notices were posted for all Shasta Daylight service except from a period June 10 to and including the Tuesday following Labor Day. This suspension was to be effective January 20, 1964, but was suspended for the Second Shasta Hearings.

Despite an overwhelming display of bad faith on the part of Southern Pacific, and an incredulous belief by the ICC that Shasta patrons would switch to Cascade train service (something that never happened) permission to end the runs was granted on May 19, 1964.

Ending Shasta

A Shasta run, northbound the next morning from Oakland, was cancelled. All service was ended for the three-week period until June 10, 1964, when service was resumed.

Service resumed June 10 1964

The runs were resumed in June, 1965 with no advertising, despite the nine-month lapse in service. In July, abandonment notices were posted for the end of all Shasta runs effective August 31, 1965. Protests were filed and the runs continued one extra week until the Tuesday following Labor Day, although the dome car was eliminated as of August 31. The dome car, normally included in the consist of the Daylight train, was operated only two days out of each three in the 1965 season. This is because the Oakland coach yard night crews were eliminated, and a third set of the Shasta trains was introduced into the service, so it could be cleaned during the daylight hours at Oakland. Since there are no extra dome cars, the dome was simply dropped every third day, thus eliminating the most prominent feature of a train designed and scheduled for viewing the spectacular scenery.

Dropping of Dome car

The Third Shasta Hearings concluded in November, 1965, and SP was ordered to continue operation of the Shasta trains in the summer of 1966. The schedule was again lengthened, and all Shasta Daylight coaches of the new and modern variety, complete with the larger windows, were eliminated from the run. A Shasta type coach was included on each set of equipment during the first week of operation in June, 1966, but these were dropped after June 15. From June 15 until the Tuesday following Labor Day, the Shasta trains operated only with 1937-1940 vintage coaches. These articulated coaches were very bumpy and dirty, and were frequently "cram" coaches with seats spaced close together. Long distance passengers were seated in the 72-seat observation car, which, formerly a parlor car, was bumpy, equipped with "close seating" and was generally dirty.

Dirty Cars

On January 28, 1967, Oregon PUC Commissioner Jonel C. Hill told officials of the press that SP had announced it would not run the Shasta Daylight trains in the summer of 1967. Hill ordered the runs continued until at least August 8, 1967 a statutory 60-day period during which hearings are to be held. This was despite the fact a formal application for abandonment had not been filed. SP responded to this order by posting abandonment notices at the Oregon stations and depots.

Abandonment of Service

No notices have yet been posted in California.

The Shasta Route Equipment

When the Shasta Daylights were placed in service July 10, 1949, they were widely hailed as "The Million Dollar Train with the Million Dollar View." Each train consisted of 15 cars. Of these, 13 had been ordered new from Pullman-Standard, and two, the parlor-observation car and the baggage car, were rebuilt for high-speed service.

Million Dollar Train

The most popular feature of the new coaches was the large window design. These windows were 34 per cent larger than any windows ever built into passenger equipment at that time, and were both longer and higher than usual, thus offering the very best non-dome looks at scenery available anywhere in the United States.

Large Windows

The windows were also equipped with special anti-fogging devices, which kept them clear in 100° plus valley heat as well as minus zero temperatures in mountainous areas.

The coaches featured outside entry baggage racks, which allowed coach porters to load luggage speedily from the outside of the cars. Passengers could claim their baggage later after it had been lifted to the interior of the car by elevators.

Each car was equipped with speakers for radio and a public address system. The train passenger representative, who made announcements at points of interest, also requested passengers to lift window shades as soon as they were no longer needed so passengers across the aisle could have a good view.

View of the country

The dining facilities were especially interesting, in that they were large enough to seat 144 persons at one time; an important factor on a day run with a maximum capacity of 700 passengers. Most early Shasta runs saw 1500 meals served every day. The dining facilities were incorporated into a triple-unit articulated car, with two large dining rooms connected by a kitchen car. The forward dining area was considered a coffee shop, with informal service (place mats only) and a smaller menu. The rear car was considered a dining car, with full service. Large windows, as in the other Shasta coaches, made meal time a memorable "event" while riding the Shasta.

Meal on Shasta was a memorable event

The Timberline Lounge car was modeled after the famous Timberline Tavern on Oregon's Mount Hood. As with other Shasta equipment, it was decorated with the bright colors of the Shasta route. In 1955, this car was replaced with a dome lounge car, and was reassigned to the Coast Daylight, where it advertised the Shasta route to San Francisco-Los Angeles travelers until converted to an 86-seat coach (both cars) in 1963.

Made into a Coach

The beautiful parlor cars were equipped with thick rugs and a beautiful "living room" in the rear, or observation segment of the car. These cars seated 22 passengers for a modest $8 extra per trip (1962 fares) and appealed to the "first class" crowd. They were converted to 72-seat coaches in 1963 after parlor service was ended.

Parlor Service ended

The baggage car, equipped for high-speed service, was replaced by newer models in the late 1950's. The new cars had a shorter wheelbase than the old baggage cars, and produced a rougher ride for passengers in the first coach behind the baggage car.

The Shasta Daylight was an immediate success when placed in service, and carried an average load the year around of approximately 450 persons for several years. Peak period trips saw passenger loads as high as 700, and older equipment was pressed into service to accomodate the high loads. In 1954, SP ordered new passenger coaches, and four additional large-window cars were assigned to Shasta Daylight service, bringing the train's consist to 17 cars.

When loads reached 700, a total of 22 cars were operated; this however, required the use of five coaches of an older design.

Once the Shasta trains fell under "the cloud," the equipment used on the train began losing its luster. Cleaning operations in both Portland and Oakland were spartanized. Rest rooms were not kept spotlessly clean, and the large picture windows were often dirty. The interiors of such important cars as the dome car became customarily dirty.

The outside-loading baggage racks were sealed over, and maintenance to the trucks (wheel assemblies) was reduced. As a result, the cars became increasingly rough riding. This was especially true for the triple-unit dining cars, which required more maintenance than regular cars to insure smooth riding qualities.

As a result of lessened volume, the triple unit dining cars were discontinued, and replaced with regular single-unit diners which had smaller capacities. However, there were exceptions at times.

At the Second Shasta Abandonment hearings, SP officials testified that second dining cars were not operated until the passenger count reached 275. However, on December 27, 1963, train No. 9, the southbound Shasta Daylight, carried two dining cars (the triple unit) with a crew being deadheaded from Oakland on the overnight Cascade train to Salem, where it opened the second car. The total number of passengers who boarded and left the train that day was 218! The result was an inflated expense ledger at the abandonment proceedings.

This incident was repeated on July 14, 1964. On that day, four coaches were operated, but the train again carried two dining cars, one a coffee shop car, the other a grill car. Since the passenger count on that day was approximately 150, there was no apparent reason for a second diner, and the result was an increased loss.

Loss

Thus, under the direction of the management which took office in 1952, there has been an almost constant decrease in not only the schedule and the service, but also in the calibre of the equipment of the train itself.

Railroads, as every other business, must remain modern. No airline flies 1937 planes to Portland. Few bus lines operate 1937 buses to Portland. And it is doubtful that many motorists drive 1937 automobiles to Portland. Yet rail passengers on the most beautiful daylight ride in the United States are forced into dirty, bumpy and almost totally obsolete equipment -- equipment apparently operated with the express purpose of driving the patrons to other modes of transport.

Poor old equipment apparently designed to drive away passengers

The high-window deluxe coaches built for the Shasta Daylight have been placed in the general car pool, and are no longer assigned exclusively to the Shasta route trains. The result of this policy has been that recent Shasta Daylights have been regularly assigned rough-riding prewar coaches, while the newer coaches built for this train have turned up as brakemen's coaches (no passengers permitted) on Oakland-Ogden mail trains #21 and #22, and other Shasta type coaches have been permanently assigned to the Los Angeles-Phoenix mail-and-piggyback trains #39 and #40. We do not understand how this policy can be in the best interest of the traveler.

The Shasta Route Schedule

When first placed in operation, the Shasta Daylight schedules were considered the toast of the railroad world. They covered the 700 some miles from Portland to Oakland 16th Street station in less than 15 hours, and represented a cut of three hours from the previous best scheduled running time.

The inaugural run on what Railroad Magazine called "SP's Hustling Shastas -- Twin orange and red comets," called for a southbound Portland - Oakland schedule of 14 hours and 53 minutes. The northbound Shasta's time was 14 hours and 58 minutes, only five minutes longer!

While old time railroaders said that SP could not keep up this pace, 1950 saw the northbound Shasta's time cut to 14 hours, 52 minutes, a minute faster than the southbound run.

In 1951, the running time of the southbound Shasta was cut to 14 hours and 48 minutes. Since the cut in running time took place after over 700 trips were operated, we can assume that rail management at that time considered the original schedule not only feasible, but one with a little "fat" in it which could be cut out with additional effort. In 1951, the northbound run was lengthened by one minute, and was pegged at 14 hours and 53 minutes.

These schedules permitted departures from San Francisco and Portland at 7:45 a.m., and arrivals at 11:15 p.m. This permitted the passenger to arrive at a "reasonable" evening hour, and also gave him an opportunity to see the most scenery before sunset.

By 1958, the schedule for the northbound Shasta Daylight had been lengthened to 15 hours and 25 minutes, or some 33 minutes longer than the best time. The southbound Shasta in 1958 covered the Portland-Oakland 16th Street run in 14 hours and 55 minutes, seven minutes longer than the best run.

In 1962, the schedule of the southbound Shasta was lengthened to 15 hours and 20 minutes, some 32 minutes longer than the best time. As a result the train left Portland earlier and arrived in Oakland later than before. The reason offered by SP for the 1962 schedule change was that it was necessitated by additional demand caused by the World's Fair at Seattle. After the fair, however, the shorter schedule was not resumed.

In the summer of 1965, when abandonment notices were placed on the train in July, the schedules had again been lengthened. The official excuse was that storm damage from the December, 1964 floods had made longer running times necessary.

In 1965, the southbound Shasta's schedule from Portland to Oakland was 15 hours and 35 minutes, or 47 minutes longer than the best time. The northbound Shasta required 15 hours and 44 minutes to make the run, or 52 minutes longer than the best time.

In 1966, the Shasta Daylights were operated after the ICC had denied an abandonment request. Although storm damage had long since been repaired, the trains, both northbound and southbound, required 16 hours and 15 minutes to travel between Oakland and Portland. In the case of the southbound train, this was one hour and 27 minutes longer than the best time!

The longer schedule, of course, made evening arrivals so late as to make the day run difficult to make if the traveler were to be met by friends or relatives. Because of Daylight Saving Time, arrivals are now at 1:30 a.m.!

During this period of lengthening schedules, SP made only one attempt to operate the Shasta Daylight on Daylight Saving Time. This was in August, 1963, when SP proposed to operate the northbound train one hour earlier from Oakland. This new northbound schedule, one hour earlier, would have caused the northbound Shasta to miss by sixty-five minutes the northbound Owl train, which was to depart Los Angeles later in the evening so as to carry additional mail. The new Owl schedule would have carried it through Merced on SP's east valley line; and the Owl's running time was lengthened, resulting in a missed connection with the Daylight if the northbound Daylight left Martinez one hour earlier.

The California PUC vetoed the proposed schedule change and the connection was retained. Thus the one schedule improvement was designed not to improve patronage, but would have lowered it by eliminating the connection which provided 25 per cent of its volume.

In October of 1966, a three car special train of SP company executives was operated from Portland to Berkeley in 14 hours and 38 minutes. This is an indication that despite a reduced speed limit over the entire route from Oakland to Portland (the former 79 mile per hour limit had been cut to 70 as of late April, 1966) that trains can still operate on the best times of the Shasta Daylight. Also, a number of line changes have reduced the mileage between Oakland and Portland. One such change, which eliminated 1.37 miles of line south of Klamath Falls, Oregon, was opened in December, 1965. This should have saved approximately five minutes. Reduced curvature between Milwaukee and Coalca, Oregon, through Oregon City, has reduced running time between Portland and Salem.

Thus, with present rules and regulations in effect, a running time of 14 hours and 30 minutes is entirely feasible, provided the passenger trains are given right of way over freights.

The Shasta Route Stations

__San Francisco__: Third and Townsend Street Station.

Third and Townsend is a large, mission-style stub end terminal. San Francisco peninsula commuter trains arrive here, as do Coast Line passenger trains. Passengers for San Joaquin, Overland, and Shasta routes depart by bus from a platform on the south side of the station. The design is Mission-Rococco. The waiting room is large, and has the inevitable wooden benches. A modern style ticket counter is on the north end of the waiting room. Old, faded photomurals of the various routes decorate the walls. There are no new posters promoting the trains. The station has a bar and restaurant to service the commuters. A sign prohibiting the feeding of pigeons is in a prominent place in the concourse.

__Oakland__: Sixteenth Street Station

Oakland formerly had two main Southern Pacific stations. The Oakland Mole was the cavernous stub-end terminal and ferry slip where passengers changed for the ferryboats. It went out of service in 1958 when the ferry service stopped, and was recently torn down to make way for Bay Area Rapid Transit facilities. The surviving station is located in a slum-industrial area adjacent to a large railroad classification yard.

Sixteenth Street Station must have been an imposing structure at one time. It is a stone-faced ediface with a large central waiting room, and a newsstand annex. It is somewhat gloomy and dark, as older buildings of this type tend to be. There are no new travel posters on display.

__Berkeley__

Berkeley has a mission style station at the base of University Avenue. Direct bus service on the municipal bus lines is available to the Berkeley Campus of the University of California, but to our knowledge, there has been no effort to promote traffic from the University within the last decade.

The station is moderately well maintained, but is otherwise undistinguished.

__Richmond__

The Richmond station is a run-down clapboard station, which has little distinction.

__Crockett__

We have no information on the Crockett station.

__Martinez__

The Martinez station has been recently painted on the interior, and while not exactly striking, is rather pleasant. For some reason, this station seems to have received better maintenance than most small S.P. stations.

Suisun-Fairfield

This is an old wooden structure, ill maintained.

Davis

The Davis station is a mission-style structure located at the junction of the Shasta and Overland routes. The Railroad Club of the University of California, Davis, is engaging in a campaign to clean up the station, which has received considerable local press interest. The railroad has promised to work on the station, but as yet, nothing has been done.

Gerber

An old wooden station, with many train facilities.

Redding

We have no information on this station.

Dunsmuir

An old wood station, not very well maintained. A pleasant park is just south of the depot.

Klamath Falls

The Klamath Falls station is a pleasant, native stone structure that could be very attractive, with a little effort. It is clean, and located near the central district of town. Klamath Falls is the jumping-off point for Crater Lake National Park, and at one time a flourishing vacation trade was done. With the drop off in advertising and promotion, and increasingly inconvenient schedules, this business has gradually disappeared.

Eugene

A large, fairly well maintained stone station, although it is poorly lit.

Albany

The Albany station is old and moderately well maintained.

Salem

Similar in design to Oakland 16th Street Station, this structure needs sandblasting or painting.

Portland

Portland Union Station is a large, through station shared by five railroads. It is rather dark inside, but there are posters, signs, etc., promoting rail travel. These promotional devices are almost exclusively the work of the four railroads other than the S.P. using the station. The outside trim needs paint, but it is not really objectionable.

The Shasta Route On-Time Record

A fundamental fact, and a prime advantage of a railroad train is that it travels in a one-dimensional world. It can go forward, backward, or stop; but it cannot go sideways or up or down. The operator need not steer or navigate, since these functions are built into the track itself. The train is thus far less dependent on the skill and reflexes of the operator than a highway or air conveyance.

Another advantage of a train rests with the fact that a train is designed to carry large numbers of goods or passengers. Thus there can be far fewer of them on the system at any one time than road or air transport, and the problem of avoiding collision is greatly simplified.

Rail transport shares with air transport the advantage that the personnel connected with the operation are all trained professionals, and lack of skill is sharply reduced as a causative factor in delays or accidents. The bus or truck must share the road with the incompetent, reckless, and incautious automobile driver.

Probable causes of accidents

With all these advantages, one might reasonably expect that a scheduled train on a well-run railroad ought to be able to adhere to its timetable at least 90% of the time, barring acts of God.

The public expectation of what the on-time record of a train ought to be can help to define what an acceptable on-time record is. In gathering data for presentation to the California Public Utilities Commission in connection with the proposed abandonment of the SP's Lark, one of us (FH) distributed a questionnaire to members of the Zoology Department of the University of California, Davis, who had ridden a train in the last three years. One of the questions in this survey (Appendix 1) was, "What do you consider to be an adequate and reasonable on-time record (plus or minus ten minutes at terminal) for a passenger train?" The average was 86%, and 80% of the 32 respondents said that 90% or better was reasonable. A service that does not meet this standard is thus not adequate, and one can only conclude that passengers will gravitate to other modes of transit. It might be added that the Canadian National's successful new Rapido trains, using essentially the same equipment as the SP's, maintain a 95% on-time record.

The Lark

Cascade Line On-Time Records

Records were kept of the departure times of the Cascade and Shasta trains from the Davis station from 24 June 1966 to 30 January 1967 (Table 1). Observations were not made every day, but the sample was more than adequate to insure statistical significance. The important points from the analysis of this data are that in this time period, the Cascade was on time 23.1% of the time, and the Shasta was on time 25.5% of the time. The Cascade averaged 23.7 minutes late, and the Shasta averaged 35.9 minutes late.

Trains late

During the summer period, when the railroad has its best chance to win new passengers, the on-time record is very low. For Davis passengers, the on-time record of Shasta route trains is not acceptable by any reasonable standard, and we urge that a similar analysis of the on-time records be made for Portland and Oakland arrival times.

Shasta trains late too often

Passenger trains no longer given right-away — time reduced 79 to 70 mph

It is not difficult to arrive at the reasons for this poor record. The number of sidings has been reduced (see Sidings section), which means that a train must wait longer in the siding for a meet. The speed limit for passenger trains along the entire route has been reduced from 79 to 70 mph, making it more difficult to make up lost time. During the summer, the lengthy Cascade trains are not run in two sections, which means double stops must be made at many stations. Perhaps most important is the fact that passenger trains are no longer given right-of-way over freights. An official's special train (see Schedule section) made the trip in less than 15 hours when given rights over all trains.

The Post Office Department agrees with us that the S.P. is wanting in punctuality, and in April 1967 fined it $25,000 for delaying the mail. Mail is chiefly carried on passenger trains.

S.P.
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April 1967
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Table 1

Statistical Analysis of On-Time Records of Shasta Daylight and Cascade Trains: 24 June 1966 to 30 Jan 1967*

	Cascade North	Cascade South	Shasta North	Shasta South	Cascade Total	Shasta Total
No. of Observations	91	65	11	40	156	51
Total Min. Late	2359	1338	155	1675	3697	1830
Av. min. Late	25.923	20.585	14.091	41.875	23.609	35.882
No. times On-time	8	28	7	6	36	13
% on-time	8.791	43.077	63.636	15.000	23.077	25.490
Number of minutes late per year					17,300	3,229[1]
Number of man-minutes spent by passengers waiting for train per year					519,000[2]	32,290[3]
Number of man-hours spent by passengers waiting for train per year					86,500	538
Probability that north and south trains both leave on time on same day					1 in 26	1 in 10
Probability that north and south trains both leave on time on two consecutive days					1 in 676[4]	1 in 100
Probability of Cascade and Shasta both leaving on time on same day					1 in 260	
Probability of Cascade and Shasta both leaving on time on two consecutive days					1 in 67,600	

*Times reported are departure times from Davis station

1. Based on season of 90 days
2. Based on average of 30 persons/day both ways
3. Based on average of 10 persons/day both ways
4. This actually happened on 12-13 Sept. This unusual event should occur again sometime in 1968.

Industrial nations: require railway passenger service

The Shasta Route Siding Capacity

Since 1952, when the current management came to power, the Shasta route has been systematically stripped of its sidings and thus capacity to pass trains, even though freight business has risen 50 per cent in the ten-year period from 1955 to 1965.

In 1952, there were ⑳ sidings in the 123-mile segment from Portland to Eugene. Now there are 14.

In 1952, there were 22 sidings between Eugene and Crescent Lake, a division point near Cascade Summit. Now there are 18 in this 98 mile district. Among the missing are Odell Lake siding and one siding at Cascade Summit itself; both of which were important because these are areas in which trains "bunch" at certain hours of the day, and also because siding capacity in this high snowfall zone aids train operations during storms.

Sidings needed for snow falls

In the zone between Crescent Lake and Klamath Falls, 22 sidings have been reduced to 13.

In the Klamath Falls - Black Butte district, a total of 17 sidings in 1964 became 10 sidings in 1966.

Sidings have also been eliminated between Black Butte and Redding, and between Redding and Gerber, Calif.

The only section of the line which has not suffered siding removal has been the double-track section from Davis to Oakland.

Thus, we can easily see that each Shasta route passenger train creates more "friction" with meeting and passing freight trains than formerly. When there are fewer sidings, freight trains must enter sidings more distant from the most favorable location for a "meet" if the passenger train is not to be delayed.

to keep passenger trains from being delayed

In a visit to Davis February 19, 1967, R. L. King, superintendent of the SP Western Division, said that slower passenger schedules were an unfortunate part of the reduction in the number of sidings.

Slower passenger trains due to fewer sidings

We agree with Mr. King. The unfortunate program of siding removal instituted by SP when the present management came in has not only weakened the passenger service, but has weakened a vital north-south defense artery in the United States; one which can hardly function now with passenger train service. Large troop and equipment movements for the military could not easily take place on the Shasta route now, if regular freight and passenger service were to be maintained at the same time.

Almost every other industrialized nation in the world is increasing the capacity of its railway system. In almost every industrialized nation, use of the railways by passengers is increasing.

In almost all industrial nations railways by passengers are increasing

Could we not say then, that perhaps the rail managements, and not the people who are passengers, are out of step? Certainly the evidence suggests just that.

Passenger railways increasing in practically all industrial nations

Madison Avenue and the Southern Pacific

It is difficult to think of a single American corporate endeavor which is not accompanied by the fanfare of modern, mass-media advertising. Every institution, from universities to steel companies; labor unions to stock exchanges; conservation groups to government agencies puts aside some part of the corporate wealth for promotion and advertising.

advertising

In Creative Advertising, Charles Whittier writes, "Management, capital investment, plant efficiency, manufacturing skill, all of the raw materials and the products made from them, all of the services and the people and equipment that perform them, all these are frozen assets unless the warm sun of consumer demand thaws them out. Somebody must sell something to somebody else or the wheels of industry stop turning."

Quite simply, if people don't know about a product or service they are not to be expected to buy. Mrs. Smith might never have though of buying a color television if the advertisements on her black and white set hadn't convinced her she was missing something big. And Mr. Brown might have taken the "Shasta Daylight" to Portland instead of the Greyhound bus if he had only known that a beautiful dome-lounge train ran in daylight through some of the most spectacularly beautiful scenery in North America.

Shasta Daylight

Harvard business professor Neil H. Borden wrote, "No American, even though he lives within cloistered walls, is entirely removed from the influence of advertising....In almost every piece of merchandise an American buys, he is influenced consciously or unconsciously, directly, or indirectly, by advertising."

We approach, then, a consideration of S.P. advertising. The question is, toward whom has the Southern Pacific's advertising program been directed? Which Americans have been the targets of S.P. ads? The traveling public? The business man? The realtor? Indeed, someone who has not made a deliberate search for Southern Pacific advertising might wonder whether, like the Arabs folding their tents, the "Friendly's" ad men at Foote, Cone and Belding had not folded their story boards and silently stolen away. When it comes to travel, Southern Pacific's advertising is now about as commonly seen as an on-time train.

As can be said about so many other things involving S.P., it "wasn't always this way." Southern Pacific was once very active in advertising its services to the public. At the turn of the century the railroad spared no expense to bring the merits of its fine trains to the public attention. For the purposes of analysis we divide Southern Pacific's advertising history into two periods, and the great volume of passenger advertising prevalent in the first third of this century was the golden age of the first, or "consumer oriented", category.

Golden age of ads

Southern Pacific was courting the passenger, and their ads reflect this. Featured were not only the regular trains, but also a vast number of tours and excursions, ready to escort the traveler anywhere from Portland to Mexico City. The emphasis was on the comfort, reliability and sheer enjoyability of train travel. "Sunset Magazine" was started as an advertising folder for Southern Pacific. Major real estate and promotional magazines for California carried articles by Southern Pacific officials. These articles extolled the wonders of civilization, which was

ads about tours and excursions

carried to California on Southern Pacific tracks, naturally. The railroad, groaning under the attacks of Norris's The Octopus was concerned about its image, and was using mass-media to convince an apprehensive public that it was, indeed, the friendly railroad.

The first era of S.P. advertising, then, was characterized by accent on the consumer. The railroad, at least according to its flacks, was operating for the public.

About the mid-twenties a new philosophy arose at the S.P. home offices, or at least, one might infer this from a subtle change in advertising tone. While passenger advertisements continued until mid-fifties, a new element had been added in the twenties. Frustrated that it still had not eliminated competition in California and, worse, that it had to pay taxes, the company began occasionally to pull out the crying towel. In the March 1924 edition of "California Journal for Development", the space usually reserved for the company's passenger advertisements (the back cover) was given over to a full length plea. "Put yourself in our place!" It challenged the reader as it told him the sad story of how the government wouldn't let the company make an honest dollar. The question here is not the validity of the railroad's claim. The question is, was this advertisement going to persuade anyone to ride the "Overland Limited", or even ship via S.P.? No. Of course, there were many other ads for S.P. trains, so this would probably not be a hindrance to patronage and it would not even be widely noticed in the mass of advertising. But this advertisement was one of the first of a new trend that was to replace the first era of S.P. advertising and that is now in sole occupancy of the field. This second era might be called that of "Operations oriented" advertising.

These two eras of S.P. advertising had a thirty-year overlap, the first lasting until the mid fifties and the second beginning in the mid twenties. In June, 1929, the Southern Pacific, miffed at the audacity of the Western Pacific and the Great Northern in constructing a line from California to the Northwest, ran another heart-to-heart, full-page ad in the "California Real Estate Magazine." This ad tells the happy story of a successful farmer with one horse, and the heart-rendering tragedy of another once-successful farmer who went broke trying to support a second horse. The parallel with S.P.'s position and its inferences about the prosperity of the State of California were striking, and were further underscored when the S.P. signed itself the "pioneer" railroad. This can hardly be termed "positive advertising"; in fact, it embodied a negative approach which has persisted in the company's ads to this very day, and which brought about the dominance of the second era of S.P. advertising.

Much was made of the 1949 debut of the new "Shasta Daylight." Railroad magazines disected every detail of the operation, and advertisers had a field day. A special run was made for members of the press, and no expense was spared to make the trip an impressive one. The train caught on immediately. Good advertising kept it in the public eye, and the public kept the seats filled. The train was an unqualified success.

Advertise in the Shasta

One year later the new "Cascade," the overnight train, went into service on the same line. Advertisements in the very same magazine which once carried the "Put Yourself In Our Place" page urged California readers to ride the "New Cascade" to the northland. Eight Pullmans ran every night, and four went through to Seattle, The "two-car-length Cascade Club" was widely heralded.

advertise in the Cascade

advertising designed to discourage rail travel

Both the "Cascade" and the "Shasta Daylight" had their own sets of equipment, both were painted in striking color schemes. Both carried with pride the train's name emblazoned on the outside. The trains were good advertisements in themselves - just looking at them, even when they were standing still, would make one want to ride. The public's image of the Shasta route trains was never better. 1949

Then, in the mid-fifties, things began to fall apart. First, advertising slowed, then stopped. As a personal experience, the author of this section, who has been on the lookout for such advertisements, has seen only two in recent years - one in the Third Street Depot in San Francisco, and the other on a peninsula commute timetable. The foolishness of this kind of publicity is self-apparent. People who read timetables or who are in the railroad depot are already traveling by train. The great market outside is now unaware, at least by advertising standards, that trains to the north exist. Even the two instances cited no longer advertise Shasta route trains; in the Third Street Depot these days, commuters are exhorted to Jet to Las Vegas. Mid 50's

The paint schemes of the trains no longer invite potential travelers aboard. The brilliant orange and black of the "Shasta Daylight" and the grey and black livery of the "Cascade" have given way to a kalaidescope of grey cars, tin-plated cars, and yellow and red cars, forming a jumble offensive to the eyes of all but the psychedelic. One's first impression upon seeing the "Cascade" might be to ask if Ringling Bros. were still traveling by train.

And if this were not enough to destroy patronage, the negative cast of remaining S.P. advertising has now taken complete control. No longer is it sufficient not to advertise trains or to deny that they exist. Now the friendly railroad runs freight advertisements in travel magazines, and urges people not to ride the train. In the October, 1965 "Sunset" magazine the S.P. published its "vanishing American" advertisement. It pictures a lonely man sitting in a coach, then goes on to say why he is alone: buses are cheaper, planes are faster, cars are more convenient. Inference: the man is crazy. This advertisement points out all the advantages of the competition, and as such occupies a unique place in advertising history. The ICC concluded that it was designed to discourage patronage of the train and encourage acceptance of the abandonment of service, and fits in perfectly with the S.P.'s manufactured image of the passenger train rider as a kook or oddball.

The mind boggles at the possibilities if this kind of advertising catches on. We can see an Avis ad something like this --

> "Do You Know Why Hertz is Number One?"
>
> It's because Hertz is better than Avis! Their large size lets them give better service than we ever can. Go Hertz, if you want good service, but if for some reason you want to do business with us, we might have a car around.

Or this new campaign from Crest --

> "Toothpaste Breakthrough"
>
> Crest scientists have conclusively established that regular use of Gleem toothpaste results in fewer cavities than any other product. We will still make Crest for anyone who still wants it.

These imaginary absurdities of Mad Magazine type humor are merely variations on the precedent now established by Southern Pacific.

The Southern Pacific never misses a chance to play on the social aura which says passenger trains aren't "slick" or "in". It did this very same thing when, in attempting to get rid of the "Lark", the overnight train from San Francisco to Los Angeles, the company "advertised" the train as the "Bird that can't fly". Again, the company was creating the image of the imbecility of rail travel, except that this time it threw in the crying towel for good measure. Finally, the Railroad Club was told by Carl Olson, public relations man for S.P. that he, Olson, never travels by train even though he can do it for free. Mr. Olson drives or flies. Can a railroad whose public relations representative goes around telling people that trains are a bad way to travel seriously expect its patronage to hold firm? Can anyone consider such a railroad to be acting in good faith? The authors, with all due respect, think not.

The culmination of all advertising is a buildup, in the public eye, of the corporate "image". The author of this section, in attempting some impartial determination of S.P.'s "image", addressed an inquiry to the San Francisco offices of Batton, Barton, Durstine and Osborne, Inc., one of the nation's foremost advertising concerns. In this inquiry, the firm was asked to rate S.P.'s "image" on a scale from "0 - poor" to "10 - excellent". A BBDO official wrote, "I would rate the S.P.'s 'image' as '0 - poor', though as a peninsula commuter I may be biased." No further comment is really necessary.

The Shasta Route Patronage Figures

Summer season loadings on the Shasta Daylight amounted to 466 persons per trip (average) in 1949, and rose to 478 persons per trip in 1955, the year the dome cars were added to the Shasta's consist. The southbound run was strengthened by its connection at Portland with the newer, faster 1952 North Coast Limited which is operated by Northern Pacific. This train received dome cars (and increased patronage) in 1954. Great Northern's Empire Builder, which also meets the southbound Shasta, received its dome cars and a patronage increase in 1955.

Average summer loadings on the southbound run often exceeded 550-600 persons.

The SP's official figures are thus:

Year	Summer average load (per train)	Per cent of 1955	
1955	478 ✓	100	(Source: SP brief before the ICC, finance docket 23756, Dec. 6, 1965, p.14)
1956	464 ✓	98	
1957	406 ✓	85	
1958	331 ✓	69	
1959	324 ✓ (1)	68	
1960	245 ✓	51	
1961	229 ✓	48	
1962	261 ✓ (2)	55	
1963	161 ✓ (3)	34	
1964	153 ✓ (4)	32	
1965	99 ✓ (4)	21	

(1) First year of tri-weekly operation 7½ months per year.
(2) World's Fair stimulated travel to the Northwest.
(3) Several strike threats during summer depressed patronage. Automats replaced dining cars. Parlor car service ended.
(4) Summer operation only. Runs began with no advertising whatsoever.

The figures of the Shasta Daylight should be closely compared with those of another scenic-run train operating in Northern California, the California Zephyr. Since the Zephyr was placed in service in March, 1949 (only four months before the Shasta's debut) it has operated with steady and/or increasing revenues. At the present time, the Zephyr is experiencing increases in revenue. The vital statistics are thus:

Year	Annual passengers	Average passengers per day (both trains)	Per cent of 1957
1957	135,733	372	100
1958	135,196	370	99
1959	133,253	365	98
1960	136,700	373	100
1961	137,214	376	101
1962	135,119	370	99
1963	130,983 (1)	359	96
1964	137,465	377	101
1965	135,535	371	100
1966 (12 months ending July)	140,026	384	103

(1) Strike threat summer 1963 reduced tour travel.

Source: California State PUC report on the California Zephyr, Oct., 1966, Page A-4.

Blame for decline in passengers should be placed for the railroads trains —

Western Pacific has been noted for its good service, excellent food, and well-kept cars. The California Zephyr train is consistently advertised, and efforts are made to promote special tours and excursions on the Zephyr the year around. These include ski tours to Colorado, Fall tours to New England, trips to Mardi Gras in New Orleans in February; and many others.

We can thus see that service has been a major factor in keeping the Zephyr 100 per cent filled in peak months, and 75 per cent filled in off-season months.

With the Shasta Daylight, however, the case has been quite different.

The Interstate Commerce Commission has outlined some of Southern Pacific's practices (see also section on advertising). The ICC said: "(1) Its (SP's) employees are encouraged to sell airline (its competitors) tickets at stations along the route of subject (Shasta) trains, (2) it does not pay commissions to rail travel or tour agents, (3) it does not honor national credit card systems, (4) it does not provide telephone answering or free enterprise exchange service, (5) it does not sponsor family plan fares, and (6) it presents numerous difficulties in the way of those seeking appropriate travel space by a variety of inconveniences, such as remote locations of its ticket offices (no city ticket offices) and awkward procedures used in allocation of space requirements."

"The substance of the evidence dealing with the last-mentioned item appears predicated on Southern Pacific's inability or unwillingness to cope with modern methods of dealing with passenger service used successfully by its airline competitors and by some other railroads."

It should appear, then, that the decline in patronage on Shasta Daylight trains is not entirely "normal" or due to some physical law, such as gravity, which states that passenger revenues will automatically drop.

Yet the SP management continues to hawk this line whenever and wherever it can. In an unusual letter to the stockholders introducing the 1966 annual report, over 2/3 of the communication dealt with the uselessness of passenger trains. SP president Biaggini characterized it thus in the 1966 report:

"It has outlived its usefulness. It was important in its day but has become the victim of the convenience of the private automobile and the speed and economy of the airplane."

Neither motion pictures nor radio stations were put out of business by the advent of television, nor have banks been put on the road to oblivion by the rise in savings & loan companies or mutual fund groups. In a society as technically advanced and as broadly developed culturally as our own, there is enough diversity inherent in the society to make the train an economically viable unit. In other words, there's enough business for everybody if it is aggressively sought.

Most western railroads are experiencing increasing passenger revenues. The Southern Pacific, and those lines which handle its connections to the east (Union Pacific, Milwaukee Road, Rock Island) are among the few which are not.

Some Western roads are increasing passenger revenues

In almost every way, then, the blame for patronage decline can largely be placed on the railroad, and not the general public.

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(1) Source: ICC Shasta Daylight decision, February 17, 1966, finance docket 23756, mimeo page 22.

Southern Pacific Attitude

Southern Pacific's attitude toward Shasta Route trains is not unique, but is rather just one manifestation of its attitude toward passenger service in general. To gain insight into the Shasta question, it is therefore helpful to examine this general attitude.

We believe Southern Pacific attitude can be summarized as hostile toward passengers, and the management has done much to make this evident short of publicly announcing it no longer wishes to operate trains for the public convenience and necessity. Even the New York Times stated in an article of February 12, 1967, "The belief is widespread and emphatic that the Southern Pacific apparently does not want passengers."

N.Y. Times on passengers

If our interpretation of the S.P.'s attitude is correct, there should be manifestations in the actual operation of the trains themselves. To passengers, the "Friendly" of the once "Friendly Southern Pacific" is today a grim jest. Promotion is non-existent, and advertising adverse (see discussion in advertising section). Schedules on many trains are hours longer than they were in the early 1950's, and still it is not uncommon for trains to be late (see section on on-time record). The number of trains operating has been reduced almost to the vanishing point, yet equipment used on the remaining trains is often the oldest streamlined equipment on the system, (the Southern Pacific has 77 post-war modern coaches, and during the winter off-peak season, it needs only 64 coaches to make up all the trains on its entire system). Yet, trains such as the Lark and the Cascade still carry 1937 day coaches on their overnight runs (see section on equipment). Also, lounge and dome cars for public socializing and relaxation have been eliminated on many trains, and dining cars have been replaced with the spartan automat car.

type of S.P. action

Newspapers have written stories uncomplimentary to the Southern Pacific, accusing it of sabatoging its service; stories such as "I Rode the Lark Into the Night -- Eye Witness Rides the Sleeper" which appeared in the June 20, 1966 edition of the San Francisco Chronicle. Even personalities have joined the ranks of those critical of Southern Pacific attitude, with the famous comedian and advertiser, Stan Freberg, publicly chiding that railroad from the witness stand during the Lark hearings of 1966 (San Francisco Chronicle, April 19, 1966)

With the Southern Pacific seemingly intent on ridding itself of passenger trains, the question arises: why? It is necessary to look back to the early 1950's to answer this question.

In 1950 the president of the Southern Pacific was A. T. Mercier, and at that time some of the finest trains in the country operated on the lines of his company. Of these, the flashy Shasta Daylight was among the newest, having just entered service in 1949. Although passenger trains brought in only a small percentage of total annual revenue, they were the one aspect of the company constantly before the public eye, and they provided the basis for an adequate transportation service between major population points in the West. Mercier was conscientious in providing good service and in maintaining good relations with the public, thereby backing his slogan, "the Friendly Southern Pacific." Advertising of this period, as well as two of the public relation films of that time, "Snow on the Run," and "This is your Railroad" (both from around 1952) clearly show the Southern Pacific's pride in its passenger trains (the new Shasta Daylight was displayed often and prominently in "This is Your Railroad") as well as its diligent efforts to maintain smooth public relations by projection of the "Friendly Southern Pacific" image.

Things changed in 1952, however. Mercier retired and Donald J. Russell rose from the engineering department to replace him. Russell's philosophy evidently was to cut the plant to its barest minimum while retaining only those services which brought in the highest return per train mile. Such a philosophy required the end of passenger service for three reasons. First, the value of public relations is intangible. Public relations cost money, and it was probably reasoned that the Southern Pacific could make large profits regardless of what the public thought of it. Passenger trains were thus not needed to help public relations. Second, the passenger train could not hope to bring as high a return on investment as the freight train. Third, had the company decided to retain a strong passenger service for the future, progressively modernizing and speeding it up as the times changed, it would have had to double-track most of the single track system in view of the expected phenomenal increase in freight traffic. By reducing passenger service, or eliminating it, much double-tracking would be unnecessary, and the desired minimum plant could be attained. It is interesting to note that since 1952, the number of sidings on the single track lines have been reduced drastically and freight train schedules have been cut, while the few remaining passenger trains operate on schedules several hours longer than they did in the early 1950's.

Profits main interest of SP — Passenger trains can not compete with freight train

Public regulation and attitude prevented the rapid dropping of passenger trains, which would have been desirable under management's philosophy. In 1954 the Southern Pacific placed its last order for cars to replace the remainder of its aged, non-streamlined fleet. By 1957, the trains had not changed significantly since 1950, and in that year down-grading began. In that year and in 1958, the striking "Daylight" color scheme of orange, red and black was scrapped in favor of an elephant gray color for the cars, and a filth-colored gray for the locomotives. The schedules of the trains began to be drastically lengthened, and the first major abandonment proceedings began. The company also began a "reeducation" program for making the public think the trains, which had been around for so long, were going the way of the stage coach. The theme of this program is: "we are changing with the times and are providing only the service which the public indicates it wants." This theme is evident in the "Vanishing American" advertisement, and when members of Southern Pacific's public relations staff came to Davis in February of 1967 to talk to Railroad Club members about their attempts to save Southern Pacific passenger trains, it pervaded the conversation. It means that the Southern Pacific is cutting the quantity and quality of its service because it feels no obligation to operate passenger service when the public can drive, fly, or take the bus, in spite of the fact that many people prefer to, or must take the train. It does not mean that the company is improving service to meet the changing nature of the competition.

No constant replacement aged equipment

SP no longer wants to run a rail road with passenger service

Because so much of the competition is subsidized, a plausible solution to the equitable transportation problem would be for the Southern Pacific to request a subsidy itself in regard to passenger service. It is inconceivable that the reverse would happen (that airlines and highways and waterways would lose their government support), but when this suggestion was put forth to a public relations representative of the railroad, he was horror-stricken at the thought, and said it would be the first step toward nationalism and socialism. "God help us, if we ever lose the profit motive!" Subsidization does not necessarily endanger the profit motive--as shown by airlines or bus lines. The Southern Pacific does not appear to be interested in suggestions for solving the passenger problem, even if they might be painless.

C.N. was interested in improving the passenger service

Suggested Improvements

Suggesting improvements for Shasta route trains is like recommending a restoration program for Rome after the sack of the Vandals.

One hardly knows where to begin.

We would be remiss in offering this report, however, if we did not offer some suggestions for restoring vitality to the service. These suggestions fall into two categories; those for immediate action in the next year or two, and those more ambitious ones which will take several years to bring to fruition. The service is now at a rock-bottom level, so almost any change is bound to be a change for the better.

Improvements should be made to exploit the inherent advantages of the service. These include reliability, comfort, scenery, relaxation, and relatively high ground speed.

Immediate Action

Consist: The wandering flock of Shasta-type deluxe coaches should be removed from the car pool, and assigned to the Shasta Route. Cars which are mechanically sound, but in need of routine repainting should be thoroughly renovated, reupholstered, and repainted inside and out with a new, bright color scheme. A bright scarlet solid color would be no more expensive than the current drab bilgewater color. A coffee shop car, and a baggage car should be repainted to match the coaches. A suggested consist for the Shasta Daylight in 1967-68 would be a baggage car, a dome-lounge, a coffee-shop car, and three Shasta-type coaches. The engines assigned to this service should be repainted in bright colors. A similar treatment should be afforded the consist of the Cascade trains. This minimal program would give the impression that something was being done to improve passenger service, and would slow the exodus of patrons.

Slow the
Exodus
of patrons

During the winter, more cars could receive this facelifting in order to be ready for the summer rush.

Schedule: A fifteen hour schedule for the Shasta Daylight is feasible for 1967-68. Arrival time at the terminals should not be later than 11:30 pm local time. The Cascade's schedule should be speeded to permit a 5:00 pm departure from San Francisco. Dispatching should be tightened to permit a yearly 80% on-time record for both trains. The Lark train from Los Angeles should be speeded to permit a 7:30 am arrival in San Francisco, thus allowing a Shasta Daylight connection. Consideration should be given to originating the Cascade at San Jose, and making adjustments to the Coast Daylight schedule to permit a connection from Los Angeles. This maneuver would also permit tapping the large population area around San Jose.

Train service: The railroad should encourage employees to put the "friendly" back in "Friendly Southern Pacific." This might be in the form of incentive awards for courtesy and good service. We have considerable doubts about the actual extent of dining car losses, but good dining service must be restored. At least two items on the menu should be competively priced with non-train food to forestall screams about high price. Boredom is sometimes a problem when traveling through the valleys, so magazine subscriptions should be expanded, and games provided for children. An intriguing possibility for the Cascade, and perhaps also the Shasta, would be the establishment of a discotheque car to be placed in service during the summer, when large numbers of young people ride. This would be nothing more than a baggage car stripped to the walls, and fitted out with a tape recorder, and soft drink vending machines, suitably bolted down.

Reservations: Computer reservations should be established immediately. Either the company's own computers could be used, or the services of one of several companies which specialize in computer time-sharing could be employed. Such reservations would cost no more than $.75 to make, figured on current costs. Computer print-out units would be placed at Portland, San Francisco, and Los Angeles. These units cost about $100 a month to lease. Reservations from points other than this would be made by phoning to these points via company telephones from local stations. The request would be read into the computer, and returned within 5 seconds. The whole operation should take less than a minute. Computer programs and hardware already exist for this kind of operation, and the service would more than pay for itself by permitting 100% utilization of space right until the minute of departure, instead of the 80% utilization of non-computer systems.

Stations: At the very least, stations which are regularly patronized should be repainted on the inside with cheerful colors to replace the grim pallor of the present scheme. Efforts should be made in the smaller towns to consolidate rail and bus service in the train station, and the resulting economies would permit the improvement of the property. The general level of maintenance should be raised to that enjoyed by Great Northern stations.

Advertising and promotion: Until service is restored to a minimally acceptable level, large outlays for advertising are not necessary, but once the service is raised to the level where the Company can again have some pride in its operation, advertising and clever promotion will be essential. We believe this level can be reached by 1968, and a campaign should be planned to begin in the early part of that year. Currently unexploited markets should be tapped, for example, college students. It will be necessary to remake the image of the trains, because great harm has been done to the trains by the poor service of the last decade. Family, and group fares should be promoted.

Promotion of Passen service

Further Action

Efforts should be made to overcome management's real objection to the passenger trains; the slowing of freights. It is clear that some restoration of siding capacity is needed. A computer analysis of movements of traffic can furnish information on where these sidings should be located most economically. Double tracking of the entire line is the most satisfactory solution from an operational standpoint, but would be expensive. The next best thing represents a concept which is available to main-line railroads, but to our knowledge is not being included in the plans of any line. This is real-time computer dispatching. This merely means that information on the location and speed of all trains moving on the line is fed into a computer, which then analyzes the information and gives instructions to each train on changes in speed necessary to meet or pass another train at a siding without a delay to either train. Information on mechanical failures or accidents would be instantly relayed to the computer which would then modify its instructions. This principle will be used by the Bay Area Rapid Transit district in the operation of its trains. By 1975, the hardware and programs should be both practical and economical.

SP management contends that a $50 million dollar replacement of all passenger equipment is required if passenger trains are to be continued. Naturally, we would like to see this take place, but we believe that far less expensive remodeling would extend the life of recent equipment into the 1980's. Installation of new high-speed trucks would overcome objections to rough riding. Sound insulation under the floor would quiet stubborn rattles. Reupholstering, redocorating, and repainting would bring back the bloom of youth. We would estimate that two to three million would fix up both Shasta Route trains until new equipment becomes a possibility.

$50 milli [illegible] for equip [illegible]

Installation of cab signals and automatic train stop would permit raising maximum speeds on the Shasta Route to 90-95 mph without major trackwork. This increase would primarily be of advantage to the Shasta Daylight.

Perhaps the area of greatest promise is concerned with the financing of these improvements. The railroad should realize that after a fruitless campaign of many decades to have the subsidies removed from competing transportation modes that the subsidies are here to stay; equitability will only be restored if the railroad is granted the same priviledge. To argue that subsidy destroys competition, free enterprise, and the profit system is patent nonsense. One has only to look at the airlines for proof. Direct subsidy for capital improvement may not be the best answer; perhaps tax credit might be more acceptable. The railroad should wake up to the fact that it is out of step, and take advantage of the opportunities which the competition has exploited for years.

tax credit

Conclusions

We believe the evidence presented in this report is sufficient to warrant a full investigation into this situation by the appropriate regulative and administrative bodies. Jurisdictional problems in the past have made such an action difficult, but a recent precedent has been established by the ICC investigation of the adequacy of rail passenger service between Los Angeles and New Orleans. Time is of the essence in this matter, and we urge that the ICC, state Public Utilities Commissions, and the Department of Transportation meet and settle jurisdictional questions immediately. If this is not done soon, there may well be nothing left to adjudicate.

A part of the consideration of Shasta Route passenger service should consider the part a regulated public utility, such as SP, plays in the scheme of American public life.

As it is granted a franchise by the public, and because its operations are enhanced by such valuable rights as that of eminent domain, the railroad is under an obligation to provide service. This means that it must conduct some operations which are not as profitable as others. In many cases, some operations must be conducted at a loss. For instance, phone companies do not make nearly as much money serving farmers as they do serving city apartment houses. Yet we could not have a broadly developed civilization if a sizeable portion of the citizenry were denied telephone service.

Railroads often lose money on branch line service. Yet., the abandonment of branch lines might mean the end of a viable economy for many communities.

Railroads must face this same circumstance in the conduct of passenger service. American passenger trains usually take in $2.50 to $5 per train mile; and cost about $4 per train mile to operate. On SP, the average freight train movement brings in $14.25 per train mile. Since this is an average, we must consider that main line freights often bring in $30 per train mile; and fast piggyback freights, carrying high value merchandise, may bring in as much as $100 per train mile.

This high income per freight-train mile has come to overshadow the relatively low income per passenger train mile.

However, this does not mean passenger trains need be liabilities. Most western railroads have experienced increasing passenger revenues in the past several years. We conclude that if the passenger train still attracts passengers, then railroads are under duty as a part of the service to be rendered by their holding of a public franchise, to render this service.

It is our opinion that a decline in patronage on Southern Pacific line has been accompanied by, if not preceeded by, a decline in service of such magnitude as to make the railroad's contention that the public has voluntarily deserted the trains an unacceptable one.

Decline in Service

The reasons for taking a train between San Francisco and Portland are as valid now as they were in 1950 when the trains were new. Only an hour or so is saved by jets over the old prop planes, and the trains successfully competed with the planes in the early 50's. In spite of highway improvements, for maximum

Trains are comp-able With Planes

safety, the automobile drive between Portland and San Francisco should still be made in two days. There is now the dubious advantage of being able to go to the bathroom in a swaying bus, but other than a reduction in time, there is no more reason to travel by bus now, than 15 years ago. The train is still by far the safest way to travel, expecially in winter. Two West Coast Airlines plane crashes, and a 24-death Greyhound bus smashup in the last two years grimly attest to this fact.

Safety

In its 1966 Annual Report, the President, and Chairman of the S.P. state that "Although earnings increased over those in the previous year, the results would have been better had the Company not sustained a loss of $16 million from its passenger operations. The Company cannot afford to allow losses of this magnitude to continue as they have for many years."

Loss

We feel that this loss figure is misleading to the stockholders, since it is figured on the so-called "ICC formula", and does not represent the actual savings that would result if all passenger trains were dropped. Stanley Berge, Professor of Transportation at Northwestern University, in the July, 1966 issue of Fortune estimated that the actual out of pocket loss in passenger operations for most railroads was no more than five percent of the ICC formula figure. The S.P.'s actual loss on this basis is probably closer to one or two million dollars than sixteen million. In our opinion, the reasons for the S.P.'s enthusiastic abandonment program lie elsewhere than in the area of concern over these relatively small direct losses.

Inaccurate estimates

We believe that the chief objection to the passenger train is that the passenger train interferes with the rapid running of the extremely high revenue producing first class freights, thereby reducing their competitive advantage. The grossly reduced physical plant of the S.P., with many fewer sidings, accounts for this conflict.

Rail [illegible] [illegible] and freight projects

Instead of maintaining or increasing the capacity of the plant, the S.P. has chosen to sacrifice the passenger train to preserve the schedules of its fast freights.

Freight

We feel that the public has been driven off the trains by service which is unacceptable to the modern traveler. We feel that the traveler will desert any mode of transport which does not exploit the advantages inherent in that mode. The Southern Pacific's slow, unreliable, uncomfortable, inconvenient, and unattractive trains would be guaranteed low patronage even if all the jets were grounded, or the buses scrapped.

Poor service

There is a travel explosion in the United States. There is and will be large increases in "non-business" travel. More leisure is making train travel more attractive to everyone. People are living longer, and retiring earlier. While S.P. says that time will take care of the elderly who now travel by train, it is more likely that the increased number of "old" people will mean an increased market for train travel. The increased interest in the American environment makes it certain that more people will desire to see it the most pleasant way -- from the train.

Seeing the country

The jetliner has its useful purpose, as does the freeway. We would argue that these artifacts of modern transportation have not supplanted the long-distance passenger train, but in fact have supplemented it. There still is no more relaxing way to travel than by train, and there is no safer way. There is no better way to see vast stretches of the natural beauty of America. The passenger train can ease the burden on the highways and overcrowded airports, and offers a unique way of seeing the country that should not vanish.

over-
Crowded
Air ports

Appendix I

31 March 1966

Summary of S.P. Passenger Survey

32 responses out of 45 distributed. Average age of respondents 30.9.

Questions (figures are number of replies):

Have you ridden a Southern Pacific passenger train in the last 3 years?
Yes 16 No 16

If not, why not? (Check one or more)
1 was not aware that there was still passenger service.
2 Was of opinion that S.P. had bad service.
12 Preferred some other means of transportation to existing service.
4 Departure and arrival times not convenient.
1 Had no occasion to travel.
3 Never occurred to me to take the train.
5 Other (specify)

What do you consider to be an adequate and reasonable on-time record (plus or minus 10 minutes at terminal) for a passenger train?
20% 1, 50% 2, 75% 3, 90% 12, 95% 10, 99% 2

When do you last recall seeing an S.P. passenger train ad?
1966 0, 1965 3, 1964 1, 1963 2, 1962 1, Can't recall 26

Did you know that the S.P. provides direct service from Davis to San Francisco on a train with a full diner and lounge, with a schedule that provides almost a full day for business or shopping at a round trip price 10¢ more than the bus, and several dollars cheaper than the cost of driving yourself? Yes 7, No 26

In your opinion, in the last four years, has the Southern Pacific taken any visible action to attract passengers? Yes 1, No 26, Don't know 6

If you have seen a Southern Pacific passenger train passing through Davis in the last four years, what is your opinion of its external appearance (check one or more):
Striking 1, Drab 11, Eye catching 3, Dirty 7, Beautiful 0, Dull 5, Colorful 1, Don't recall 6, Other 5

If you have traveled by train recently, why did you do so (check one or more):
Safety 3, Economy 6, Baggage allowance 2, Comfort 4, Fun for kids 1, Don't like to fly 0, Didn't want to drive the distance 4, Scenery 2, No other way to get there 4, Relaxation 2, Don't like buses 4, Other 1

What improvements, if any, do you think the Southern Pacific could make to provide better service and/or attract more passengers.
Better on-time record 3, Faster schedule 8, Lower fares 7, More attractive exterior and interior 12, More courteous service 7, Greater ease in getting tickets 6, Effective advertising 12, Cleaner stations 13, More frequent service 9, More convenient times of departure and arrival 8, Modernize appearance of trains 9, Full diners rather than coin operated machines for food service 5, Better public relations 12, Don't know 1, All of these 4, None of these 0

How would you characterize the Southern Pacific Company's attitude toward passenger travel?
Actively seeks passengers by excellent service and extensive advertising: highly positive _0_; Provides generally good service, and lets the public know what service is available: positive _1_; Provides adequate service, and neither encourages nor discourages passenger traffic: Neutral _7_; Has generally poor service, and makes no moves to attract or hold passenger business: negative _15_; Has uniformly bad service, and places barriers in the way of potential passengers: actively hostile _3_; Don't know _6_

Do you think there is a need for fast, comfortable, modern, economical rail transportation in corridor areas such as San Francisco-Los Angeles?
Yes _29_; No _0_; Don't know _1_

If so, do you think the Southern Pacific is currently providing such a service?
Yes _1_, No _17_, Don't know _11_

Appendix II

Reduction of Siding Capacity on the Shasta Route

Despite a 50 per cent increase in freight business on the Shasta route since 1956, Southern Pacific management has substantially reduced siding capacity on the single-track line. This has not only made on-time operation of fast passenger service more difficult, but has also seriously curtailed the usefulness of the Shasta route to the military in event of a national defense emergency.

All material here is taken from official company documents and timetables.

Sidings in use Portland-Eugene
April 27, 1952

Siding name	Mile Post	Car Capacity
Portland	771.0	Station
Haig	767.9	End of double track
East Milwaukee	764.1	107 cars
Clackamas	760.0	99 cars
Oregon City	755.5	112 cars
Coalca	750.8	102 cars
Canby	746.8	118 cars
Hito	741.6	111 cars
Hubbard	738.8	36 cars
Woodburn	735.2	117 cars
Gervais	732.1	56 cars
Brooks	726.9	99 cars
Labish	722.2	101 cars
Fair Grounds	720.3	72 cars
Salem	718.2	Depot
Pringle	717.4	105 cars
Turner	710.7	101 cars
Marion	704.2	109 cars
Jefferson	699.5	91 cars
Millersburg	695.4	92 cars
Albany	690.9	140 cars
Page	689.9	160 cars
Tangent	684.6	97 cars
Shedd	679.0	98 cars
Halsey	673.8	87 cars
Folk	670.7	104 cars
Harrisburg	665.1	80 cars
Swain	659.9	110 cars
Irving	653.0	101 cars
Eugene Yard	649.2	Yard
Eugene Depot	647.3	Depot

Total: 26 sidings
123.7 miles

Source: SP Portland Division
Timetable No. 144, April 27, 1952
Pages 4 and 5

Sidings in use Portland-Eugene
October 30, 1966

Siding name	Mile Post	Car Capacity
Portland	771.0	Station
Haig	767.9	End of double track
East Milwaukee	764.1	107 cars
Clackamas	760.0	150 cars
Coalca	750.8	151 cars
Hito	741.6	162 cars
Gervais	732.1	150 cars
Labish	722.2	152 cars
Salem	718.2	Depot
Renard	714.7	150 cars
Marion	704.2	157 cars
Millersburg	695.4	150 cars
Albany	690.9	Depot
Hallawell	688.0	150 cars
Shedd	679.0	150 cars
Alford	667.0	150 cars
Swain	659.9	150 cars
Irving	653.0	129 cars
Eugene Yard	649.7	Yard
Eugene Depot	647.3	Depot

Total: 14 sidings
123.7 miles

Source: SP Oregon Division
Timetable No. 5, October 30, 1966
Page 5

Sidings in use Eugene-Crescent Lake
April 27, 1952

Siding name	Mile Post	Car Capacity
Eugene	647.3	Depot
Judkins	645.1	100 cars
Springfield	619.4	96 cars
Natron	614.1	101 cars
Hills	610.1	101 cars
Pengra	605.4	99 cars
Carter	600.8	100 cars
Reserve	595.9	103 cars
Armet	592.1	123 cars
Lookout	585.6	100 cars
Hemlock	583.5	62 cars
Oak Ridge	580.5	55 cars
Pryor	575.3	106 cars
McCredie Springs	569.3	100 cars
Heather	564.2	99 cars
Wicopee	560.4	108 cars
Fields	554.8	101 cars
Frazier	551.3	108 cars
Cruzatte	546.0	98 cars
Abernethy	540.8	113 cars
Cascade Summit		
west sdng	536.7	144 cars
east sdng	536.7	143 cars
Odell Lake	532.1	93 cars
Crescent Lake	528.6	Yard

Total: 22 sidings
95.0 miles

Source: Southern Pacific Portland
Division Timetable No. 144
April 27, 1952
Pages 2 and 3

Sidings in use Eugene-Crescent Lake
October 30, 1966

Siding name	Mile Post	Car Capacity
Eugene	647.3	Depot
Judkins	645.1	102 cars
Natron	615.1	102 cars
Dougren	609.9	101 cars
Dexter	604.3	105 cars
Minnow	600.6	103 cars
Crale	595.4	101 cars
Hampton	590.9	101 cars
Lookout	585.6	113 cars
Oak Ridge	580.5	146 cars
Pryor	575.3	127 cars
McCredie Springs	569.3	112 cars
Heather	564.2	109 cars
Wicopee	560.4	101 cars
Fields	554.8	113 cars
Frazier	551.3	101 cars
Cruzatte	546.0	89 cars
Abernethy	540.8	116 cars
Cascade Summit	536.7	150 cars
Crescent Lake	528.6	Yard

Total: 18 sidings
96.2 miles

Source: Southern Pacific Oregon
Division Timetable No. 5
October 30, 1966
Page 6

The line between Natron and Lookout was relocated to make way for the Lookout Point Dam reservoir in 1953.

Sidings in use Crescent Lake-Klamath Falls Sept. 28, 1952

Siding name	Mile Post	Car Capacity
Crescent Lake	528.6	yard
Umli	524.0	93 cars
Kotan	519.5	94 cars
Mowich	514.8	93 cars
Paunina	507.2	93 cars
Chemult	503.3	93 cars
Diamond Lake	498.0	92 cars
Yamsay	492.6	104 cars
Mazama	488.2	92 cars
Lenz	483.4	93 cars
Chinchalo	478.6	92 cars
Fuego	474.5	92 cars
Kirk East Sdng	470.3	109 cars
West Sdng	470.3	104 cars
Calimus	465.3	101 cars
Braymill	461.1	101 cars
Pine Ridge	458.0	78 cars
Chiloquin	456.7	196 cars
Lobert	451.8	98 cars
Modoc Point	447.2	99 cars
Ouxy	442.6	103 cars
Algoma	438.9	98 cars
Wocus	434.1	100 cars
Klamath Falls	429.5	depot & yard

Total: 22 sidings
99.1 miles

Source: Southern Pacific Shasta Division Timetable No. 58, September 28, 1952, pages 6 and 7

Sidings in use Crescent Lake-Klamath Falls October 30, 1966

Siding name	Mile Post	Car Capacity
Crescent Lake	528.6	yard
Umli	524.0	123 cars
Mowich	514.8	132 cars
Chemult	503.3	187 cars
Diamond Lake	498.0	123 cars
Yamsay	492.6	123 cars
Lenz	483.4	124 cars
Fuego	474.5	124 cars
Kirk	470.3	124 cars
Calimus	465.3	144 cars
Chiloquin	456.7	124 cars
Modoc Point	447.2	123 cars
Algoma	438.9	123 cars
Wocus	431.9	125 cars
Klamath Falls	429.5	depot & yard

Total: 13 sidings
99.1 miles

Source: Southern Pacific Oregon Division timetable No. 5, October 30, 1966, page 7

Appendix II (Continued)

Sidings in use Klamath Falls-
Dunsmuir September 28, 1952

Siding name	Mile Post	Car Capacity
Klamath Falls	429.5	depot & yard
Midland	426.2	95 cars
Worden	415.6	101 cars
Dorris	407.1	101 cars
May	402.6	106 cars
Somerset	398.3	100 cars
Mt. Hebron		
West siding	394.0	85 cars
East siding	394.0	90 cars
Jerome	390.0	105 cars
Kegg	386.0	73 cars
Bray	381.9	100 cars
Penoyar	377.2	106 cars
Erickson	373.1	95 cars
Grass Lake		
west Siding	368.5	113 cars
east Siding	368.5	107 cars
Cougar	364.8	108 cars
Andesite	360.7	103 cars
Bolam	357.2	102 cars
Hotlum	352.2	103 cars
Black Butte	345.2	232 cars
Deetz	342.3	116 cars
Upton	339.1	111 cars
Mount Shasta	336.7	94 cars
Azalea	333.5	116 cars
Mott	331.4	144 cars
Small	326.1	110 cars
Dunsmuir	322.1	depot & yard

Total: 25 sidings
107 miles

Source: Southern Pacific Shasta Division timetable No. 58, September 28, 1952, pages 4 and 5

Sidings in use Klamath Falls-
Dunsmuir October 30, 1966

Siding name	Mile Post	Car Capacity
Klamath Falls	429.5	depot & yard
Midland	422.3	95 cars
Worden	415.6	94 cars
Dorris	407.1	106 cars
Mt. Hebron	394.0	145 cars
Kegg	386.0	164 cars
Bray	381.9	93 cars
Penoyar	377.2	99 cars
Grass Lake	368.5	110 cars
Andesite	360.7	164 cars
Hotlum	352.2	98 cars
Black Butte	345.2	231 cars
Upton	339.1	176 cars
Mount Shasta	336.7	96 cars
Azalea	333.5	117 cars
Mott	331.4	145 cars
Small	326.1	112 cars
Dunsmuir	322.1	depot & yard

Total: 16 sidings
105.6 miles
Source: Southern Pacific Oregon Division timetable No. 5, October 30, 1966, page 8

The route was shortened 1.37 miles by a line change between Worden and Dorris completed in late 1965.

Appendix II (Continued)

Sidings in use Dunsmuir-Gerber
September 28, 1952

Siding name	Mile Post	Car Capacity
Dunsmuir	322.1	depot & yard
Castle Crag	318.3	115 cars
Castella	315.3	48 cars
Conant	313.1	108 cars
Sims	309.4	106 cars
Fisher	306.0	63 cars
Gibson	304.0	98 cars
Lamoine	300.2	110 cars
Delta	296.7	104 cars
Lakehead	285.7	101 cars
Mead	281.2	100 cars
O'Brien	277.6	120 cars
Pitbridge	273.2	89 cars
McColl	270.4	100 cars
Central Valley	266.3	100 cars
Silverthorn	263.0	102 cars
Redding		
East siding	258.2	181 cars
West siding	258.2	96 cars
Girvan	253.5	102 cars
Anderson	247.1	99 cars
Culp	244.2	103 cars
Cottonwood	240.4	97 cars
Hooker	233.6	104 cars
Blunt	228.9	97 cars
Glade	224.5	97 cars
Red Bluff	223.4	54 cars
Rawson	218.9	98 cars
Gerber	213.8	depot & yard

Total: 26 sidings
101.4 miles

Source: Southern Pacific Shasta Division Timetable No. 58, September 28, 1952, pages 2 and 3

Sidings in use Dunsmuir-Gerber
October 30, 1966

Siding name	Mile Post	Car Capacity
Dunsmuir	322.1	depot & yard
Castle Crag	318.3	116 cars
Conant	313.1	107 cars
Sims	309.4	107 cars
Gibson	304.0	99 cars
Lamoine	300.2	111 cars
Delta	296.7	105 cars
Lakehead	285.7	102 cars
Mead	281.2	101 cars
O'Brien	277.6	122 cars
Gray Rocks	270.4	102 cars
Central Valley	266.3	105 cars
Silverthorn	263.0	102 cars
Redding	258.2	220 cars
Girvan	253.5	185 cars
Culp	244.2	169 cars
Draper	236.5	166 cars
Blunt	228.9	166 cars
Rawson	218.9	166 cars
Gerber	213.8	depot & yard

Total: 18 sidings
101.4 miles

Source: Southern Pacific Sacramento Division Timetable No. 6, October 30, 1966, page 2

Because the 112 miles from Gerber to Davis are not operated as SP's main freight route (the main freight route -- no passenger trains -- is Gerber to Roseville via Chico), siding capacity has not greatly affected operations on the Gerber-Davis segment.

The Davis-Oakland segment of 73 miles has remained a double track route from 1952 through 1967. Passenger trains are seldom delayed by freight on this portion of the line except that poor dispatching on occasion places a higher speed passenger train behind a slower-speed freight. SP officials have eliminated many of the problems of "overtaking" by reducing passenger speeds from 79 mph to 70 mph. In 1947, passenger trains were allowed top speeds of 95 mph on the Davis-Martinez bridge section of the Davis-Oakland route.

NATIONAL MEDIATION BOARD
WASHINGTON

AGREEMENT TO COVER LIST OF ELIGIBLE VOTERS INVOLVING CASE NO. R-3929 REPRESENTATION DISPUTE AMONG TRAIN PORTERS (Atlantic and Pocahontas Div.) employees of NORFOLK AND WESTERN RAILWAY COMPANY.

The undersigned parties to representation dispute among TRAIN PORTERS, employees of the Norfolk and Western Railway Company, have inspected and hereby agree to the list of eligible voters shown below, to be used in conducting an election by the National Mediation Board in its case file R-3929, as prepared by Mediator Eugene C. Frank.

Thomas O. Langhorne	1703 Bedford Avenue	Lynchburgh, Va.
Dennis F. Davis	Rte 1 Box 57	Forest, Va.
William A. Bowling	1201 Staunton Avenue	Roanoke, Va.
Edward L. Moore	~~1201 14th Street Apt~~ D 1720 Waller St	Portsmouth, O.
James O. Harre	Box 235 Shawsville, Va.	
Cortes R. Lee	813 Vinson Street	Williamson, W. Va.
Napoleon J. Harre	1221 Beaverpond Avenue,	Bluefield, W. Va.
Geeville E. Smith	1143 Stowell Street	Bluefield, W. Va.
Marshall A. Harris	207 Jones Street	Bluefield, W. Va.
Rudolph L. Smith	Station A	Williamson, W. Va.

It is agreed that changes in the eligible list of voters as referred to herein will be made only to correct error as provided in the rules governing the election.

Signed at Roanoke, Virginia, this 22nd day of May 1967.

No Representative Title
For: Federated Council of the Int'l Association of Railway Employees & Association of Railway Trainmen and Locomotive Firemen

Benjamin F. McLaurin Title E. Z. Secy
For: Brotherhood of Sleeping Car Porters

Witnessed:

Eugene C. Frank
Mediator, Eugene C. Frank.
National Mediation Board.

NATIONAL MEDIATION BOARD
WASHINGTON

Roanoke, Va.
May 22, 1967

Case R-3929

Mr. John W. Whitaker, President
Federated Council of the Int'l Association of
Railway Employees & Association of Railway
Trainmen and Locomotive Firemen
P. O. Box 1322
Albany, Georgia, 31702.

Dear Sir:

Find enclosed copies of Election Notice in Case R-3929 representztion of Train Porters, Norfolk and Western Railway Company, (Atlantic and Pocahontas Regions).

Also find enclosed copies of eligible list and Agreement for your information.

Very truly yours,

Eugene Frank
Eugene C. Frank
Mediator
National Mediation Board

Encl.

Mr. B. F. McLaurin:

The above for your information, also enclosed are copies of notice for your files and eligible agreement.

E.C.F

NATIONAL MEDIATION BOARD   No. R-3929

NOTICE OF ELECTION

TO BE HELD UNDER THE

RAILWAY LABOR ACT

INVOLVING

TRAIN PORTERS (Atlantic and Pocahontas Regions)

EMPLOYES OF

NORFOLK AND WESTERN RAILWAY COMPANY

Roanoke, Virginia,

May 22, 1967.

May 23, 1967 to June 6, 1967

TO ALL CONCERNED:

A secret ballot will be taken of eligible voters on the question of representation as submitted to the National Mediation Board by the Brotherhood of Sleeping Car Porters, in Case No. R-3929.

Section 2, Fourth of the Railway Labor Act, as amended June 21, 1934, provides that "The majority of any craft or class of employees shall have the right to determine who shall be the representative of the craft or class for the purpose of this act."

Attention is called to Section 2, Railway Labor Act, providing that elections shall be free from interference, influence or coercion, etc., also that it is unlawful for any carrier to interfere in any way with the organization of the employees, etc. Attention is also called to Order No. 1 issued by the National Mediation Board on August 14, 1934, and sent to the President of the Carrier in which it was ordered that "notice in re Railway Labor Act, should be posted and maintained continuously in readable condition on all the usual and customary bulletin boards". The election shall be conducted in such manner that interference, influence, or coercion on the part of the officers, foremen, or others in a supervisory capacity, will be avoided.

Reports of any violation should be made to the Mediator or the National Mediation Board, Washington, D. C.

THE RULES TO GOVERN THE ELECTION ARE AS FOLLOWS:

1. The balloting will be conducted entirely by United States Mail.

Mediator will mail ballots including voting instructions to elegible voters. Should any voter fail to receive his ballot within a reasonable time, he should report the fact to the Mediator or the National Mediation Board, Washington, D. C.

2. Craft or Class Involved: The employees eligible to vote in this election shall be TRAIN PORTERS (Atlantic and Pocahontas Regions), appearing on payrolls of the carrier May 15, 1967, who retain an employee relationship with the carrier on the date the vote is taken. This includes those on furlough provided they are not employed by another carrier or in another craft or class on this carrier, authorized leave of absence, sick leave, injury, railroad retirement disability under 65 years of age at time of voting. Eligible voters in military service will be permitted to vote if they appear in person at polls.

3. List of Eligible Voters: A list of eligible voters has been prepared by the Mediator from information furnished by the carrier. Copies will be available for inspection. Only those employees shown on such list will be permitted to vote, except that upon proof of error on list, such error will be corrected.

4. Supervision of Election: The election will be supervised by a Mediator of the National Mediation Board, and he will interpret and apply the rules governing the election, and decide on all challenged votes. His decision shall be final as to the immediate conduct of the election, but appeals may be made to the National Mediation Board, provided that notice of such appeal is given in writing to the Mediator prior to the submission of his report of the election to the Board. Each organization that is a party to this dispute, if it so desire, may appoint an observer to act as watcher. Such observers, or their properly authorized substitutes, will serve without liability or expense to the United States Government, and will be subject to the supervision and direction of the Mediator at all times.

5. The Official Ballot: The ballot to be used in the election has been reproduced by the direction of the National Mediation Board in exactly the same type and the same general form as the sample which has been posted on the carrier's bulletin boards.

6. Report on Election Results: The Mediator will count and tabulate all ballots in the presence of party observers, if any, at a time and place designated by the Mediator, at Washington, D. C., June 6, 1967. A report giving the results of the election will be made by the Board's representative on a form prescribed by the Board and copy of this report will be furnished to the parties to the dispute.

7. Certification of Representatives: Proper certification of the name or names of the organization or individual that has been designated and authorized to represent the employees involved in this dispute will be made by the National Mediation Board to the parties in this dispute, and the same will also be certified to the carrier.

8. Final Disposition of Ballots: The original ballots and tabulation sheets, together with the report of the election by the Mediator, will be filed with the National Mediation Board at Washington, D. C., for reference and safekeeping.

By order of THE NATIONAL MEDIATION BOARD
An Agency of the United States Government

By EUGENE C. FRANK
Mediator

R-3929

NATIONAL MEDIATION BOARD

OFFICIAL BALLOT

of

TRAIN PORTERS (On Atlantic and Pocahontas Regions)

Employees of
NORFOLK AND WESTERN RAILWAY COMPANY

May 23, 1967 to June 6, 1967

A dispute exists among the above named craft or class of employees as to who are the representatives of such employees designated and authorized in accordance with the requirements of the Railway Labor Act, and the National Mediation Board is taking a SECRET BALLOT in order to ascertain and to certify the name or names of organizations or individuals designated and authorized as representatives for purposes of the Act.

INSTRUCTIONS FOR VOTING

Mark an "X" in the square of your choice. Marks in more than one square make ballot void.
No employee is required to vote. If less than a majority of the employees cast valid ballots, no representative will be certified.

If you desire to be represented by:

FEDERATED COUNCIL OF THE INT'L ASSOCIATION OF
RAILWAY EMPLOYEES & ASSOCIATION OF RAILWAY TRAINMEN
AND LOCOMOTIVE FIREMEN

Mark an "X" in this square. . . . . ☐

If you desire to be represented by:

BROTHERHOOD OF SLEEPING CAR PORTERS

Mark an "X" in this square. . . . . ☐

Sample

If you desire to be represented by:

ANY OTHER ORGANIZATION OR INDIVIDUAL

Write name of such organization or individual on the line below,

____ and,

Mark an "X" in this square. . . . . ☐

NOTICE

1. This is a SECRET BALLOT: Do not sign your name.
2. Return this ballot in its entirety. Do not cut, mutilate or otherwise spoil it. If you do so, return ballot at once to the Mediator and obtain a new one.

Law Offices

ZIMRING, GROMFINE AND STERNSTEIN

11 South La Salle Street
Chicago, Illinois 60603
State 2-7067

1155 Fifteenth Street, N. W.
Washington, D. C. 20005
296-7420

O. DAVID ZIMRING
I. J. GROMFINE
H. STERNSTEIN

Economic Consultants

E. L. OLIVER
W. M. HOMER

Washington, D. C.
June 13, 1967

Mr. A. Philip Randolph, President
Brotherhood of Sleeping Car Porters
217 W. 125th Street, Room 301
New York, New York

Dear President Randolph:

Enclosed for your files is a copy of the ICC decision in the C&O case involving the petition by the carrier to discontinue the operation of several passenger trains. As you know, we intervened in this proceeding on behalf of the Brotherhood in opposition to the petition.

The decision prohibits the discontinuance of any of these trains and requires that they continue in operation for a period of six months from the date of the ICC order. A dissent by one of the Commissioners argues that the carrier should have been required to continue the operation for the full period of one year, which is the maximum period the ICC is permitted to require continuance. It may be noted, however, that under the statute the C&O will not be permitted to discontinue the service without instituting a new proceeding before the ICC. While the decision does not designate it as such, many of the findings on which the decision is based, particularly the conclusions with respect to the general profitability of the carrier's operation, were based upon information and argument submitted on behalf of the Brotherhood.

We are pleased with the results in this case, and we trust that your members on the C&O will feel likewise. Please extend our appreciation to Benny Smith and to the Brotherhood representatives on the C&O who assisted us in presenting the case. Let us hope that the trend in thinking on passenger service indicated in our conference with Pennsylvania officials yesterday will make this kind of proceeding unnecessary in the future.

With best wishes, I am,

Very truly yours,

I. J. Gromfine

I. J. Gromfine

IJG:mll

Enclosure

SUBMISSION OF
BROTHERHOOD OF SLEEPING CAR PORTERS
BEFORE AN ARBITER

considering a dispute between the Brotherhood and Canadian Pacific Railway Company arising out of a Memorandum of Agreement and Letter of Agreement and wage increases for the period January 1, 1966, to December 31, 1968.

Mr. J. A. Hanrahan
Arbiter

Montreal, Quebec
November 15, 1967

On March 14, 1967, a group of seven non-operating railway unions, which included the Brotherhood of Sleeping Car Porters, signed a master agreement which provided, together with certain other benefits, for a wage increase of twenty-four per cent over the period January 1, 1966, to December 31, 1968. Similar agreements were also obtained by a group of seven shop craft unions, by the Canadian Brotherhood of Railway, Transport and General Workers, by the Brotherhood of Railroad Trainmen and by the Brotherhood of Locomotive Engineers.

The events which led to these settlements are generally well known and in any case are not in themselves important in the present context. The point is that of the more than 100,000 workers covered by the agreements only the 400 or so members of the Brotherhood of Sleeping Car Porters have not been granted the agreed upon wage increases. Moreover, those who have received the increases include members of three unions who work under conditions very similar to those of CPR Sleeping Car Porters.

The dispute has arisen because of a disagreement between the parties regarding the application to wages of a Memorandum of Agreement and Letter of Agreement implementing the forty-hour work week as required by the Canada Labour (Standards) Code. The Memorandum and Letter were signed by the Brotherhood and the Company on May 30, 1966, five months after termination of the previous collective agreement, but prior to enactment of the Maintenance of Railway Operation Act on September 1, 1966, and, of course, prior to signing of the Master Agreement of March 14, 1967. There is no dispute about the introduction of the forty-hour week, which took place in two stages, the first on October 1, 1966, and the second on April 1, 1967. The Company has contended, however, that under the terms of the Memorandum and Letter wage increases awarded as of January 1, 1966, by the Maintenance of Railway Operation Act were to be discontinued on October 1, 1966, at the time of the first reduction in hours. For obvious reasons, the Company has been in a position to implement its own interpretation and the old, lower rates will continue in effect at least until January 1, 1968, when an increase of approximately 3.4% in Porters' monthly rates would otherwise probably be granted. Thus, if the Company's position is upheld, Sleeping Car Porters will obtain only 3.4% of the 24% wage increase supposedly achieved through negotiation, legislation and mediation.

It is the contention of the Brotherhood that nothing in either the Memorandum or Letter of Agreement deprives Porters from receiving the full 24% on the dates specified in their Master Agreement.

A satisfactory resolution of the dispute depends primarily upon interpretation of the terms of the Memorandum and Letter of Agreement, but it is useful to place these documents in perspective by briefly summarizing events which followed introduction of the Canada Labour (Standards) Code on July 1, 1965.

The basic requirement of the Labour Code is a standard work week of forty hours and a maximum work week of forty-eight hours. Maximum hours can be exceeded in exceptional and unforeseen circumstances, or on a recurrent basis where the nature of the work necessitates an irregular work schedule. Sleeping Car Porters, who fall into the latter category, are thereby subject to averaging of hours over periods of up to thirteen weeks: 520 standard hours in each period and up to 624 hours maximum, with all hours over 520 being paid for at the rate of time and one-half. Averaging can be instituted unilaterally by management under Section 6 of the Labour Code Regulations, but in this instance it was also necessary to change the collective agreement since Porters at the time could be required to work up to 240 hours each month -- 720 hours in thirteen weeks -- at straight time rates of pay.

Adjusting the hours of work to conform with the Labour Code could have been accomplished just as easily in July, 1965, as in April, 1967, when it was carried out with no disruption of railway operating procedures. In 1965, however, the collective agreement with the Porters was closed and CPR was prevented from reducing the monthly rates of Porters in regular service by Article 3(b) of the agreement, which states:

> Where regular assignment is less than two hundred and eight (208) hours a month, deduction shall not be made from the respective established monthly wage in consequence thereof.

Had the law been complied with at the time the Company would have had no alternative but to reduce standard and maximum hours of work and to maintain monthly rates at their existing levels. Subsequent wage negotiations between the seven non-operating unions and the major railways would have taken place just as they did and with the same outcome, except that Sleeping Car Porters would then automatically have received the same 24% increase as the rest of the group.

On June 25, 1965, however, one week before the Labour Code was due to come into force, CPR applied for deferment under Section 51 on the grounds that,

> The introduction of the standard hours of work (Section 5) or the maximum hours of work (Section 6) under Part I would be seriously detrimental to the operation of the railways because operational requirements are wholly incompatible with the Act.

Under Section 53 of the Act this application meant automatic deferral of Part I pending disposition by the Minister of Labour. Despite efforts by the Brotherhood to obtain a decision on the matter, none was made before termination of the collective agreement on December 31, 1965. In November the Brotherhood served notice for general negotiations with six other non-operating unions upon the major railways, including Canadian Pacific. Joint negotiations of this type have become standard over the years, but it was not until three joint meetings had been held that the Brotherhood was informed by letter on January 28, 1966, that,

> It is the desire of the Company that its proposals to amend the (rules governing hours of service to conform with the requirements of Part I, Hours of Service, Canada Labour (Standards) Code) be dealt with at the same time as negotiations take place in respect of the proposals set forth in your letter to me dated November 15th, 1965. In the circumstances, therefore, it will not be possible for this Company to deal with the Brotherhood of Sleeping Car Porters in concerted negotiations with other organizations.

In taking this action the Company was technically within its rights, as it is under no constraint, legal or otherwise, to bargain with more than one union at a time. Having delayed implementation of the law until the contract reopened, however, the intention of the CPR in respect of this small and vulnerable union was clear: to nullify the required reduction in hours with a corresponding reduction in pay.

Upon receiving the letter the Brotherhood immediately undertook to forestall its isolation by the Company without sacrificing the wage protection that had existed in its collective agreement when the Labour Code was enacted. In this the Brotherhood had the full support of the six other unions in the group, although the help that they could provide was necessarily limited to advice and counsel, since any resolution of the problem had to be strictly between the Porters and CPR. Nothing of consequence was accomplished during the following four months until, on May 30, the day before joint proceedings before a Board of Conciliation and Investigation were to begin in respect of the main demands, a Memorandum and Letter of Agreement were presented and agreed to by the Brotherhood and the Company. The terms of those documents are as follows:

(See pages 8, 9, 10 and 11 following)

MEMORANDUM OF AGREEMENT BETWEEN THE CANADIAN PACIFIC RAILWAY COMPANY AND ITS PORTERS REPRESENTED BY THE BROTHERHOOD OF SLEEPING CAR PORTERS

Classification	Up to & including Sept.30/66 Monthly Rate (208 Hrs.)	Pro Rata Hourly Rate	Effective Oct.1/66 Pro Rata Hourly Rate (182 Hrs. Per Month)	Effective April 1/67 Pro Rata Hourly Rate (173-1/3 Hrs. Per Month
1st to 6th month	$ 335.82	1.615	1.845	1.937
7th to 12th month	339.34	1.631	1.865	1.958
13th to 24th month	346.34	1.665	1.903	1.998
25th to 48th month	353.36	1.699	1.942	2.039
49th month and over	356.88	1.716	1.961	2.059
Compartment Car Porters	363.88	1.749	1.999	2.099
Parlor Car Porters (including In Charge)	363.88	1.749	1.999	2.099
Coach Porters (Article 2 Clause (c) not applicable)	363.88	1.749	1.999	2.099

The foregoing monthly and hourly rates of pay shall be effective on the dates shown. They shall not be subject to any upward adjustments and shall remain in effect unless and until they are overtaken by the basic schedule monthly and hourly rates contained in Letter of Agreement signed at Montreal, May 30th, 1966.

2. The foregoing monthly rates shall apply to porters in regularly assigned service. Porters working in regular assigned service for less than the full calendar month shall be guaranteed a proportion of the monthly rate pro rated on the basis of the number of calendar days held on the assignment as related to the number of calendar days in the month.

3. Effective October 1st, 1966, 182 hours' service, or less, in assigned service, shall constitute a basic month's work. All time worked in excess of 182 hours and up to and including 208 hours will be paid for at pro rata rates. Hours worked in excess of 208 in any month will be paid for at the rate of time and one-half the pro rata rates.

4. Effective April 1st, 1967, 173-1/3 hours' service, or less, in assigned service shall constitute a basic month's work. All time worked in excess of 173-1/3 hours and up to and including 190 hours will be paid for at pro rata rates. Hours worked in excess of 190 in any month will be paid for at the rate of time and one-half the pro rata rates.

5. Overtime on the basis of one and one-half times the pro rata hourly rate shall be paid for on the minute basis for all time actually worked in a three month period in excess of 546 hours between October 1st, 1966 and March 31st, 1967 inclusive; and for all time actually worked in a three month period in excess of 520 hours effective from April 1st, 1967. The three month periods applicable to all porters shall be as follows:

October, November & December;
January, February & March;
April, May & June;
July, August & September

Overtime compensation, whether straight time or time and one-half, paid for under Clauses 3 and 4 in any month of a three-month period shall be deducted when computing overtime under this Clause 5.

6. All provisions in the current collective agreement inconsistent with or in conflict with this Memorandum of Agreement shall be amended accordingly.

Signed at Montreal, Quebec, May 30th, 1966.

FOR THE COMPANY:	FOR THE EMPLOYEES:
(signed) Thos. P. James Manager, Sleeping, Dining, Parlor Car & News Department	(signed) A. R. Blanchette International Field Representative, Brotherhood of Sleeping Car Porters

T. P. James
Manager
Montreal 3

CANADIAN PACIFIC
Sleeping, Dining and Parlor Cars and News Service
Windsor Station, Montreal 3, Que.

May 30th, 1966.

A. R. Blanchette, Esq.,
International Field Representative,
Brotherhood of Sleeping Car Porters,
Rm. 517 Castle Bldg.,
1410 Stanley St.,
MONTREAL 2, Que.

Dear Sir:

This will confirm agreement reached that any general wage increases applicable to sleeping car porters, compartment car porters, parlor car porters and coach porters shall be applied to the following basic rates.

The following basic rates of pay shall not be applicable unless and until such rates, plus any general wage increases applicable to porters exceed the monthly and hourly rates for porters contained in Memorandum of Agreement signed at Montreal, Que., May 30th, 1966:

Classification	Up to and including Sept. 30/66 Monthly rate (208 Hrs.)	Pro Rate Hourly Rate	Effective Oct. 1/66 Pro Rata Hourly Rate Monthly rate (182 Hrs.)	Effective April 1/67 Pro Rata Hourly Rate Monthly rate (173-1/3 Hrs.)
Sleeping Car Porters				
1st to 6th month	$ 335.82	1.615	1.615	1.615
7th to 12th month	339.34	1.631	1.631	1.631
13th to 24th month	346.34	1.665	1.665	1.665
25th to 48th month	353.36	1.699	1.699	1.699
40th month and over	356.88	1.716	1.716	1.716
Compartment Car Porters	363.88	1.749	1.749	1.749
Parlor Car Porters (including In Charge)	363.88	1.749	1.749	1.749
Coach Porters (on one or two cars as required)	363.88	1.749	1.749	1.749

This will also confirm that this Letter of Agreement and the Memorandum of Agreement signed this date represent full settlement of the request contained in my letter of January 28th, 1866, to Mr. Philip Randolph that rules governing hours of service for porters be amended in comformity with Part I of the Canada Labour (Standards) Code.

When the Memorandum of Agreement of May 30th is signed by the parties, and you have also signed this Letter of Agreement, Canadian Pacific agrees to the employees covered by these two Agreements being brought within the scope of the residual non-operating employees group appearing before the Board of Conciliation which commences hearings on June 1st, 1966.

In respect of the Company's proposals for other revisions to the Collective Agreement as contained in the document forwarded to Mr. Randolph with my letter of February 25th, 1966, we have agreed that the proposed amendments contained therein will not be considered to be matters before the Board of Conciliation above mentioned.

Yours truly,

(signed) Thos. P. James
Manager, Sleeping; Dining
& Parlor Cars & News
Service

AGREED:

(signed) A. R. Blanchette
International Field Representative
Brotherhood of Sleeping Car Porters

APPROVED:

R. C. Smith
Chairman, Non-Operating Unions'
Negotiating Committee

Much of both the Memorandum and Letter of Agreement has no direct bearing on the present dispute. Clauses 2 to 5 of the Memorandum spell out the mechanics of the two-step introduction of the 40-hour week, and averaging of hours over three month periods, and are not at issue between the parties. Clause 6 requires conformity of other provisions in the collective agreement and should cause no difficulty when the basic problem is settled. In fact, the dispute arises solely from differences between two columns of figures in clause 1 of the Memorandum and two similar columns in paragraph two of the letter. The remainder of this statement will be directed to an analysis and evaluation of the contentious sections.

Column 1 of clause 1 of the Memorandum lists the various classifications of Porters covered by the collective agreement.

Column 2 shows the basic monthly rate for each classification at close of the previous contract on December 31, 1965 -- rates which had not yet been the subject of negotiation between the parties. There are eight classifications but only six different rates.

Columns 3, 4 and 5 set out pro rata hourly rates as derived from each monthly rate in conjunction with the appropriate number of hours per month. Up to September 30, 1966, a basic month consisted of 208 hours; on October 1 it became 182 hours; and on April 1, 1967, it became 173.33 hours. By way of example, it may be noted that pro rata hourly rates in the first row were calculated as follows:

$$\text{Col. } 3 = \frac{\$335.82}{208} = \$1.615 \text{ per hour}$$

$$\text{Col. } 4 = \frac{\$335.82}{182} = \$1.845 \text{ per hour}$$

$$\text{Col. } 5 = \frac{\$335.82}{173.33} = \$1.937 \text{ per hour}$$

If rate increases were to be applied directly to the figures set out in clause 1 of the Memorandum, it would be a matter of indifference from a computational point of view whether such increases were first added to the monthly rates, and the new pro rata hourly rates calculated therefrom, or vice versa. But clause 1 specifies that monthly and hourly rates in the Memorandum are to be increased only when overtaken by basic schedule monthly and hourly rates shown in the accompanying Letter of Agreement.

Now, paragraph two of the Letter contains a set of monthly and hourly rates for the same classes of employees shown in clause 1 of the Memorandum.

Column 2 of the Letter is a set of monthly rates identical with the monthly rates in column 2 of the Memorandum.

Column 3 of the Letter is a set of pro rata hourly rates identical to the rates shown in column 3 of the Memorandum and calculated in the same way, that is, as the corresponding monthly rates divided by 208 hours per month.

Columns 4 and 5 of the Letter purport to be pro rata hourly rates effective on the same dates -- October 1, 1966, and April 1, 1967 -- and reflecting the same numbers of hours per month -- 182 and 173.33 -- as the pro rata hourly rates in columns 4 and 5 of the Memorandum. However, they are identical with the hourly rates in column 3 of the Letter which have been seen to be the monthly rates pro rated over 208 hours. Thus, the rates in columns 4 and 5 of the Letter either have been incorrectly calculated or they should not have been identified as pro rata rates. Yet it is upon these two columns of hourly rates that the Company has chosen to base its contention that Porters are not eligible for the 24% increase in wages obtained during general negotiations.

As noted above, rates shown in the Memorandum prevail until they are surpassed by rates shown in the Letter plus general wage increases. Since monthly rates are identical in the Memorandum and Letter, while hourly rates in columns 4 and 5 of the Memorandum exceed those in columns 4 and 5 of the Letter, it is obviously of central importance to know whether increases are to be applied to monthly or hourly rates in the Letter. Any and all increases in monthly rates will be reflected in the Memorandum, but hourly rates in columns 4 and 5 of the Letter must be increased by more than 14.2 and 19.9 per cent, respectively, before any change occurs in columns 4 and 5 of the Memorandum.

If Porters were hourly rated employees then it would be appropriate to apply any increases to the hourly rates directly and to treat monthly rates as being of secondary importance. If, on the contrary, Porters are monthly rated employees then hourly rates are pro rata rates derived from the monthly rates, and any increases must be applied in the first instance to the agreed monthly rates. By first applying the current increases to the hourly rates shown in the Letter of Agreement the Company is implicitly asserting, therefore, that Porters are hourly rated employees.

The Brotherhood contends that if the CPR is upheld in its present position it will not only have been permitted to arbitrarily and unilaterally abandon the accepted pay basis of the past forty years, but will have successfully reversed an award in its favour of twenty years standing. A summary of that award follows:

In 1946 a number of railway unions, including the Brotherhood of Sleeping Car Porters, applied to the National War Labour Board for a wage increase. The Board subsequently said, in part, that

> ...the National War Labour Board, therefore, authorizes Canadian Pacific Railway Company and Toronto, Hamilton and Buffalo Railway

Company, with effect not earlier than from June 1, 1946, to increase wage rates of their occupational classifications covered by the application within limitations of amounts as set forth hereunder:

(a) Hourly Rates - add 10 cents to the existing basic rates of pay;

(b) Daily Rates - add 80 cents to the existing basic rates of pay;

(c) Weekly Rates - add $4.80 to the existing basic rates of pay;

(d) Monthly Rates - add $20.80 to the existing basic rates of pay.

Since Porters were at the time required to work a basic 240 hour month they sought to obtain an additional $24.00 per month rather than the $20.80 that had been authorized. Then, as now, CPR refused the Brotherhood's claim and the Minister of Labour appointed Honourable Mr. Justice Schroeder to investigate the dispute. In his report, Mr. Justice Schroeder stated:

> Honourable Sir,
>
> Pursuant to my appointment above-mentioned to inquire into a dispute existing between the Canadian Pacific Railway Company and the Brotherhood of Sleeping Car Porters touching

and concerning the interpretation or application of findings and directions of the National War Labour Board in respect of the employment of the said Brotherhood, I beg to advise that I held a hearing in Ottawa on Thursday, October 9, 1947.

. . . .

It is contended on behalf of the Brotherhood of Sleeping Car Porters that they do not come within the monthly rate of increase as set forth in Clause (d) above whereby $20.80 is to be added to the existing basic rate of pay as they are not monthly rated employees but fall within the category of hourly rated employees and this is the question which falls to be determined.

The existing agreement between the Canadian Pacific Railway Company and the Brotherhood of Sleeping Car Porters is to be found in Rates of Pay & Rules, effective June 1, 1945, which was filed at the hearing as Exhibit No. 9, and whether or not these men are monthly rated employees or hourly rated employees depends upon the effect to be given to the agreement as therein expressed.

(There follows extracts from the collective agreement which, apart from subsequent changes in applicable hours and wages, are as appear in the current collective agreement.)

. . . .

Going back to 1927 and considering the terms of the agreement then in force and considering the terms of the agreement in force in 1945, I cannot escape the conclusion that the fundamental basis of the agreement is to provide a monthly rate of pay for the employees affected. The setting up of a constructive month limited to two hundred and forty hours with a provision for overtime in respect of hours worked beyond that number, while for certain limited purposes putting such employees on an hourly basis, does not have the effect, in my opinion, of altering what I regard to be in substance and in fact the fundamental agreement between the company and the employees concerned to provide for a monthly rate of pay. In determining what the hourly rate of each employee is, the method pursued in practice is to divide the monthly rate by two hundred and forty in the case of men engaged on either assigned or unassigned runs. If some such method were not accepted, it would be impossible to give effect to the two hundred and forty hour month and to the arrangement for payment of overtime, but how that can be said to constitute these men hourly rated instead of monthly rated employees I fail to apprehend. It was argued very forcibly that, in any event, the employees engaged on unassigned runs, or "extras" as they have been described, have every right to claim that they, at least, are hourly rated employees. I do not think that this follows, however, because their hourly rate of pay (and they are only paid for the hours actually worked by them) is determined in the same way as is the hourly rate of those porters who operate on assigned runs namely by dividing the basic monthly rate of pay to which they are entitled by two hundred and forty. The monthly rate is, therefore, the unit which is taken for estimating the overtime pay, or pay at the hourly rate, to be made to all the employees engaged in this service.

. . . .

I am, therefore, of the opinion that the employees of the company represented by the Brotherhood of Sleeping Car Porters are properly to be regarded as monthly rated employees and

> that they are entitled to add $20.80 per month to the existing basic rate of pay under the terms of the finding and direction above referred to and of which clarification is sought in the proceedings before me.

In the face of this decision by Mr. Justice Schroeder the Brotherhood finds it incredible that the Company would now attempt to contend that Porters are indeed hourly rated employees. In the years since Mr. Justice Schroeder made his report nothing has occurred that in any way diminishes the validity of his conclusions. Porters have always been monthly rated employees and have always had wage increases applied directly to their monthly rates. Article 2 of their collective agreement specifies monthly rates for the various classifications just as it did in Mr. Justice Schroeder's time. Article 3 of the collective agreement defines the basic month and specifies that Porters in regular assignment are to receive a month's pay whether or not their assignment is for the basic complement of hours.

Finally, and in addition to all of the foregoing the Brotherhood contends that in refusing to pay the first 18 of the total wage increase of 24 per cent, the

Company is in violation of the Maintenance of Railway Operation Act, 1966.

Section 6 of the Act states:

> The terms and conditions of each collective agreement to which this Act applies are amended forthwith by increasing
>
> a) each rate of wages in effect on December 31, 1965, established by or pursuant to the agreement in the case of an agreement binding or entered into on behalf of non-operating employees, and
>
> b) each basic daily rate in effect on December 31, 1965, established by or pursuant to the agreement in the case of an agreement binding or entered into on behalf of operating employees
>
> by four per cent effective January 1, 1966, an additional four per cent effective July 1, 1966, an additional four per cent effective January 1, 1967, and an additional six per cent effective July 1, 1967.

In the case of its Sleeping Car Porters the Company did apply the four per cent on January 1, 1966, plus a further four per cent on July 1, 1966, but these were withdrawn on October 1, 1966, coincident with the first reduction in monthly hours. Inasmuch as Porters were (and are) monthly rated employees, such withdrawal was not permitted by section 6 which stipulates a total increase of 18 per cent for basic (monthly) rates of pay in effect December 31, 1965.

In summary it is the position of the Brotherhood of Sleeping Car Porters that its members are monthly-rated employees of the Canadian Pacific Railway Company. Wage increases must therefore be applied to monthly rates of pay, and when this is done it is clear from the Memorandum and Letter of Agreement that Porters are entitled to the full 24 per cent obtained through the Maintenance of Railway Operation Act and subsequent mediation.

ASA PHILIP RANDOLPH

SUBJECT FILE

BROTHERHOOD OF SLEEPING
CAR PORTERS
Legal Papers
Railway Labor Disputes
and Settlements

1968-72

(8)

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A. R. BLANCHETTE
International Field Representative
Dominion of Canada
Montreal, Canada

BROTHERHOOD of SLEEPING CAR PORTERS
Train, Chair Car, Coach Porters and Attendants
AN INTERNATIONAL UNION
Affiliated with the AFL-CIO/CLC

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B. F. McLAURIN
Eastern Zone Supervisor
217 West 125th Street
New York, N. Y. 10027

October 24, 1968

Mr. A. Philip Randolph
International President Emeritus
Brotherhood of Sleeping Car Porters
217 W. 125th Street, Suite 301
NEW YORK, N.Y. 10027

Dear Brother Randolph:

Enclosed herewith please find copies of our Submission to Arbitrator J. F. W. Weatherill on October 16th at Toronto, Ontario, in respect of Appeal Cases of CPR Sleeping Car Porters W. P. Brown and W. T. Green of the Vancouver and Montreal Districts, respectively.

Photo-copy of the Arbitrator's decision in each instance, which is expected to be rendered within the next week, shall be forwarded you upon receipt thereof.

Fraternally yours,

A. R. Blanchette
International Field Representative

ARB:lm
Encls.

Printed in U.S.A.

SUBMISSION OF

BROTHERHOOD OF SLEEPING CAR PORTERS

BEFORE AN ARBITRATOR

considering a dispute between the Brotherhood and Canadian Pacific Railway Company in respect of the assessment of discipline - 95 demerit marks - against the record of Sleeping Car Porter W. P. Brown, Vancouver District, in consequence of a hearing held on June 6, 1966, and ultimate dismissal of this Porter, June 13, 1966, for "accumulation of demerit marks in excess of sixty".

Mr. J. F. W. Weatherill
Arbitrator

Toronto, Ontario
October 16, 1968

HISTORY OF DISPUTE

On June 6, 1966 a hearing was accorded C.P.R. Sleeping Car Porter W. P. Brown, Vancouver District, in the office of Mr. H. Hartman, Superintendent of the Sleeping and Dining Car Department of the Canadian Pacific Railway Company at Vancouver, B. C., on the following charges:

1. Failure to have Compartment "F", Car 203, made down prior to arrival Medicine Hat, Train 2, May 11th.
2. Failure to promptly make it down when passenger boarded train at Medicine Hat and requested this be done.
3. Failure to call passengers detraining at Moose Jaw.
4. Failure to shine passengers' shoes.
5. Failure to promptly comply with request of Nun passenger to lower bed in roomette.
6. Discourteous attitude towards both the Nun and Mr. Smith.

A copy of the transcript of this hearing is attached to this Submission and marked Appendix "A". On June 7, 1966, Superintendent Hartman, over his signature, informed Porter Brown, by FORM 104, No. VR-7, that his record had been debited with Ninety-Five (95) demerit marks for

		No. Demerit Marks
(1)	Failure to have Compartment "F", Car 203, made down prior to arrival Medicine Hat, Train #2, May 11th	- 20
(2)	Failure to promptly make it down when passenger boarded train at Medicine Hat and requested this be done	- 20
(3)	Failure to call passengers detraining at Moose Jaw	- 15
(4)	Failure to shine passengers' shoes	- 10
(5)	Failure to promptly comply with request of Nun passenger to lower bed in her roomette	- 10
(6)	Discourteous attitude towards both Nun and Mr. Smith	- 20
		95

A copy of the said FORM 104 is attached to this Submission and marked Appendix "B".

On June 13, 1966 a subsequent hearing was held at Vancouver in the office of the District Superintendent for Porter W. P. Brown concerning an excessive accumulation of demerit marks, i.e.: in excess of sixty. A copy of the transcript of this hearing is attached to this Submission and marked Appendix "C", and, on June 13, 1966, FORM 104, No. VR-8, was issued by Superintendent Hartman to Porter Willie Paul BROWN informing him that he had been DISMISSED for accumulation of demerit marks in excess of sixty, a copy of which is likewise attached and marked Appendix "D".

In a letter dated July 18, 1966 the Brotherhood of Sleeping Car Porters appealed to Mr. T. P. James, Manager of the Sleeping and Dining Cars and News Service of the Canadian Pacific Railway Company, against the decision that was rendered in the case of Sleeping Car Porter W. P. Brown, Vancouver District, hearing held on June 6, 1966, on the following primary bases:

(1) As revealed by the Transcript of the Hearing on June 6, 1966, there was no evidence, whatsoever, submitted by any of the Material and Necessary Witnesses in support of any of the charges against the Accused. As a matter of fact, there was, significantly, naught adduced at the Hearing save that which, recognizably, is but Hearsay Evidence, as set out, in its entirety, on page 3 of the Transcript. And, Hearsay Evidence is, of course, inadmissible.

(2) While there were six (6) charges laid against Sleeping Car Porter W. P. Brown in the instance referred to, yet there were only two (2) of them - Charge No. 1 and Charge No. 5 - for which his responsibility was established by virtue, solely, of his own forthright admission of guilt with respect thereto. So far as Charges Nos. 2, 3, 4 and 6 are concerned, it is incontrovertibly clear, from the unchallenged testimony of the Accused in respect thereof, that these allegations were not proven, or were reasonably explained and accounted for from the point of view of objective analysis and impartial assessment, and resultantly submitted that Porter W. P. Brown is, as afore-contended, guilty only of the first and the fifth of the six Charges that were laid against him at the hearing on June 6th; that he deserves Discipline accordingly; but, "the punishment should fit the crime", whereas the assessed Discipline on each of these two counts of established Unsatisfactory Service, in the instance referred to, is extraordinarily excessive and does not fit previous patterns for similar circumstances. The Brotherhood submitted, therefore, that the Manager's appropriate reduction of the demerit marks accordingly debited Porter Brown's record for Charges Nos. 1 and 5 is in order, and that his

cancellation of the demerit marks that were unduly imposed for Charges 2, 3, 4, and 6, respectively, is warranted, and, in consequence thereof, this employee who, subsequently, was dismissed from the Company's service on June 13, 1966, should be reinstated at once and compensated for the wage loss suffered by him in the circumstances. A copy of the said appeal-letter is likewise attached and marked Appendix "E".

In a letter under date of July 20, 1966, also addressed to Manager T. P. James, the Brotherhood confirmed ERRATA in the eighth and ninth paragraphs of its appeal-letter of July 18, 1966, as are set out on Page 3 thereof, and that these paragraphs should read as follows:

> "Porter W.P. Brown is, as afore-contended, guilty only of the first and the fifth of the six Charges that were laid against him at the Hearing on June 6th. He deserves Discipline accordingly; but "the punishment should fit the crime". Superintendent Hartman's debiting of this employee's record with twenty (20) demerit marks, and ten (10) demerit marks, respectively, for these two counts of established Unsatisfactory Service in the instance referred to, is, in our considered opinion, disproportionate and unjust."
>
> "Therefore, the Brotherhood of Sleeping Car Porters herewith submits that your appropriate reduction of the twenty (20) demerit marks debited Porter Brown's record for Charge No. 1, and the ten (10) demerit marks debited his record for Charge No. 5, is in order; your cancellation of the 20, 15, 10, and 20 demerit marks that were unduly imposed thereon for Charges 2, 3, 4, and 6, respectively, is warranted, and, in consequence thereof, this employee, who subsequently was dismissed from the Company's service on June 13, 1966, should be reinstated at once and compensated for the wage loss suffered by him in the circumstances."

A copy of this letter is likewise attached and marked Appendix "F".

However, in a letter under date of July 28, 1966, the Manager confirmed to the Brotherhood his denial of the Appeal, stating finally that: "The conclusion that Brown was guilty of the six charges is inescapable, and the appeal is denied." Copy of this letter is likewise attached and marked Appendix "G".

Although a conference was held by the Brotherhood's International Field Representative with the Manager, in his office, on July 29th, at which arguments were adduced by the former in support of the Brotherhood's appeal against the decision that was rendered in this case by Mr. Hartman, Superintendent at Vancouver, on June 7, 1966, and despite subsequent exchanges under dates of August 15th, August 30th, October 6th and October 17th, 1966 in respect thereof, copies of which are likewise attached and respectively marked Appendix "H", Appendix "I", Appendix "J", Appendix "K", the decision of the Management obtained, nevertheless, that the Brotherhood's appeal is denied.

BROTHERHOOD'S CONTENTION

The Brotherhood contends that this discipline - 95 demerit marks - that was debited Sleeping Car Porter W. P. Brown's record on June 7, 1966 was not justified by the evidence adduced at the hearing held on June 6, 1966, for the following reasons:

(a) Article 42 of the existing Collective Agreement (Appendix "L") stipulates, in part, that "A Porter will not be disciplined, suspended or dismissed without first having a fair and impartial investigation and his responsibility established", and that "All material and necessary witnesses must be notified in writing to appear. If they appear, their evidence shall be taken in the presence of the accused. If they do not appear, the accused shall be furnished with a copy of their written statements." However, reference to the transcript of the Hearing accorded Porter W. P. Brown on June 6, 1966 reveals the total absence of evidence from any of the Material and Necessary Witnesses in support of the charges against the Accused, and in addition thereto, the significant circumstances that HEARSAY EVIDENCE, alone, as set out in its entirety on page 3 of the transcript, was adduced at the said Hearing. Reference to the said Hearsay Evidence, page 3 of the transcript, will disclose the fact that Mr. L. R. Smith, Vice-President, Eastern Region, Mr. J. C. Ames, Assistant Secretary, and Mr. P. A. Nepveu, Assistant Comptroller, and Mr. Cassidy, Mr. Smith's secretary, Canadian Pacific Railway Company, and, also, the Nun passenger referred to in Charge No. 5 were material and necessary witnesses in this instance, yet neither were any Written Statements over their respective signatures read into the Record on June 6th nor was the Accused furnished with a copy thereof. The only written statement, as recorded on page 3 of the transcript, having reference to this matter, is over the signature of Mr. T. P. James, Manager, and dated at Montreal, May 19, 1966. But, the said Manager, Mr. T. P. James, was not a Material and Necessary Witness in this connection, and cannot be conceivably classified as such in the circumstances, since, as confirmed by himself in his first paragraph he "was called to a meeting in the office of the Vice-President Rail, Administration, to hear a first-hand report from Mr. L. R. Smith, Vice-President, Eastern Region, and Mr. J. C. Ames, Assistant Secretary, concerning their recent trip on The Canadian with the Parliamentary Party." (The emphasis is added). Incontrovertibly, therefore, this letter under date of May 19, 1966 addressed to Mr. H. Hartman, Superintendent, Vancouver, over the signature of Manager T. P. James, as was recognizably the basis for the six charges being laid, as therein instructed, against Sleeping Car Porter W. P. Brown in the instance referred to, is naught save Hearsay Evidence in accordance with juridical definition, and, therefore, is inadmissible.

Hearsay cannot be used as evidence of the Truth of the facts asserted. You must produce the person who saw or heard or otherwise perceived the fact and not someone to whom he gave or wrote an account of what happened. Since Manager T. P. James' information was derived from other persons, and he himself had no personal knowledge of the facts to which he deposed, then his evidence is, indisputably, HEARSAY.

The only material witnesses who gave testimony, oral and/or written evidence in respect of the charges against the Accused at his hearing on June 6, 1966 were Porter W. P. Brown, himself, and CPR Sleeping Car Porter J. N. Gardner of the Winnipeg District.

(b) No corroborative evidence in support of the charges against the Accused was supplied for the record by Superintendent H. Hartman who presided at the Hearing on June 6, 1966; the testimony of the Accused, as set out in the transcript, was therefore unchallenged, in any degree, whatsoever, and, further, since a preponderance of evidence establishes Proof of Issues, it follows, inescapably, that Charges Nos. 2, 3, 4 and 6 were NOT PROVEN.

On the other hand, Charges Nos. 1 and 5 against the Accused were the only two (2) charges, of the six (6) charges laid against him, for which his responsibility was established by virtue, solely, of his own forthright admission of guilt with respect thereto. Consequently, in accordance with Article 42 of the existing Collective Agreement, Porter W. P. Brown only deserves Discipline accordingly.

(3) It is to be remembered that the imposition of disciplinary penalties is a gravely serious responsibility that must be carried out judiciously and with an awareness of the quantity and quality of evidence available to support such action. In other words, "the punishment should fit the crime". In the light thereof, the Brotherhood submits that the discipline - twenty (20) demerit marks - debited Porter Brown's record for proven Charge No. 1, and the discipline - ten (10) demerit marks - debited his record for proven Charge No. 5, is extraordinarily excessive and does not fit previous patterns for similar circumstances, and, consequently, ought to be appropriately reduced to conform therewith.

Apropos of the aforementioned, the Brotherhood herewith submits, as reference, a photo-copy of Canadian Pacific's listed Demerits, Cautions and Dismissals covering the months of August - November, 1966 with respect to employees of their Sleeping and Dining Car Department, and, so far as Charge No. 1 against Porter Brown is concerned, it will be noted, as listed thereon, that a Sleeping Car Porter was assessed 11 demerits on three charges, the second of which was: "Failure to have accomodation properly prepared for occupancy," and the records of both the Canadian Pacific and of the Brotherhood reveal, in this particular regard, that there were but three (3) demerits assessed against the Porter for said dereliction of duty. It is indubitably clear that proven Charge No. 1 against Porter W. P. Brown in the instance referred to is in the selfsame category of service delinquency as is "Failure to have accomodation properly prepared for occupancy", yet, and in spite of this irrefutable fact, Porter Brown's record was debited with 20 demerit marks, notwithstanding, whereas the other Porter's record was debited with but 3 demerit marks. Surely, the inconsistency and disparity therein is inescapably unwarranted, unfair and unjust.

The Brotherhood contends, further, that some of the six charges that were laid against Sleeping Car Porter W. P. Brown were proliferated, for instance, Charge No. 2 stemmed from Charge No. 1, and Charge No. 6 stemmed from both Charge No. 2 and Charge No. 5. The Brotherhood is of the opinion that the proliferating of a charge against an Accused, for the apparent purpose of assessing excessive and unwarranted discipline ultimately, is of itself a wrong act, separate and apart from its being out of harmony with juridical procedure and methodology.

For the aforegoing reasons, the Brotherhood herewith submits that the Company's position in respect of this Dispute fails, and, accordingly, the Brotherhood's appeal against the decision that was rendered by Mr. H. Hartman, Superintendent at Vancouver, in the case of Sleeping Car Porter W. P. Brown of the Vancouver District, the hearing of which was held on June 6, 1966 should prevail.

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Appendix "A"

TRANSCRIPT OF HEARING HELD AT VANCOUVER IN THE OFFICE OF THE SUPERINTENDENT, S.D. AND P.C. DEPARTMENT, AT 10:05 A.M. (D.S.T.), MONDAY, JUNE 6TH, 1966 CONCERNING VANCOUVER SLEEPING CAR PORTER W.P.BROWN

Present: Mr. H. Hartman - Superintendent
Mr. L.R. Scarratt - Asst. Superintendent
Mr. W.P. Brown - Sleeping Car Porter
Mr. O.L. Holmes - President, Brotherhood of Sleeping Car Porters

Miss I.M. Price - Stenographer

Hearing opened at 10:05 A.M. (D.S.T.)

Mr. Hartman:

We are here for the purpose of holding a Hearing in connection with the contents of my letter to Vancouver Porter W. P. Brown dated May 26th, 1966, reading as follows:

"File S.R. 13088
VANCOUVER, B.C.,
May 26th, 1966.

Mr. W. P. Brown,
Sleeping Car Porter,
Arriving Vancouver Car 110,
Train #1, May 27th,
c/o Mr. L.R. Scarratt,
Asst. Superintendent,
Vancouver, B. C.

Dear Sir:

This letter is to inform you that you are to be present in my office at 10:00 K Daylight Saving Time, Monday, May 30th, 1966, for a Hearing in regard to the following charges:

1. Failure to have Compartment "F", Car 203, made down prior to arrival Medicine Hat, Train 2, May 11th.
2. Failure to promptly make it down when passenger boarded train at Medicine Hat and requested this be done.
3. Failure to call passengers detraining at Moose Jaw.
4. Failure to shine passengers' shoes.
5. Failure to promptly comply with request of Nun passenger to lower bed in roomette.
6. Discourteous attitude towards both the Nun and Mr. Smith.

If you so wish, you may have an accredited representative of the Brotherhood of Sleeping Car Porters present at this Hearing.

Yours truly,

(Sgd.) H. Hartman
Superintendent."

(Initialled)
HH LRS OLH WPB IMP

In reply to this letter, Porter W.P. Brown requested a postponement of the Hearing until Monday, June 6th, 1966, to which we agreed. His letter reads as follows:

"May 30th, 1966.

"Mr. H. Hartman,
Superintendent,
S.D. and P.C. Dept.,
Canadian Pacific Railway,
Vancouver, B. C.

Dear Sir:

This is to request a postponement of my Hearing until June 6th, 1966, 10 A.M. D.S.T.

Yours truly,

(Sgd.) W.P. Brown

W.P. Brown."

Questions asked by Superintendent H. Hartman
and answered by Sleeping Car Porter W. P. Brown.

Q. Are you Sleeping Car Porter W. P. Brown?

A. Yes sir.

Q. According to your staff card you last entered the service of this Company on June 7th, 1955. Is this correct?

A. Yes sir.

Q. Having been employed as a Sleeping Car Porter since June 7th, 1955, you should be thoroughly acquainted with the Company's instructions and regulations pertaining to the duties of a Sleeping Car Porter which are in Instruction Booklet DC 233 issued to you as part of your equipment. Are You?

A. Yes sir.

Q. Did you receive my letter dated May 26th quoted above?

A. Yes sir.

Q. Were you the Sleeping Car Porter assigned to Car Bayfield Manor, designated 203, Train #2, ex Vancouver May 9th, passing Medicine Hat early A.M. of May 11th, 1966?

A. Yes sir.

Mr. Hartman:

I will now read to you the contents of our Manager's letter dated May 19th, 1966, outlining complaints submitted by Vice-President, Eastern Region, Mr. L.R. Smith, Mr. J.C. Ames, Assistant Secretary, Mr. P.A. Nepveu, Assistant Comptroller, a Nun passenger, also a Mr. Robertson, regarding your unsatisfactory services and your discourteous attitude.

(Initialled)
HH LRS OLH WPB IMP

"MONTREAL, May 19, 1966.

Mr. H. Hartman,
Superintendent,
VANCOUVER.

Dear Sir:

Yesterday afternoon I was called to a meeting in the office of the Vice-President Rail, Administration, to hear a first-hand report from Mr. L.R. Smith, Vice-President, Eastern Region, and Mr. J.C. Ames, Assistant Secretary, concerning their recent trip on The Canadian with the Parliamentary Party.

Mr. Smith stated that when he boarded Car 203, delayed Train No. 2 at Medicine Hat May 11th, he asked Porter W.P. Brown to make down Compartment "F", and Porter Brown informed Mr. Smith that he would attend to it later. When asked why it had not been made down previously, particularly in view of the fact that the arrival time of this train would be after midnight, Porter Brown replied that it was because he needed a place to sit. This conversation took place in the presence of Superintendent Flett.

Mr. Ames and Mr. P.A. Nepveu, Assistant Comptroller, were also passengers in Car 203 ex Medicine Hat May 11th, They both requested Porter Brown to call them prior to arrival Moose Jaw, but this was not done and they were actually called by the Trainman, who was requested to do so by Mr. Smith. Another passenger in this car, known to Mr. Smith, a Mr. Robertson, also detraining at Moose Jaw, was not called and he detrained in view of the C.P.R. party, buttoning up his clothes. When interrogated by Mr. Smith he stated that the Porter had neglected to call him.

No shoes were shined on this car.

A Nun also told Mr. Smith, in the presence of Mr. Cassidy, his secretary, that because of an appendix operation she had asked Porter Brown to lower the bed in her roomette when she wanted to retire. He delayed performing this service and she therefore commenced to disrobe and had actually taken off her head-dress when Porter Brown rapped on the door and it was necessary for her to put the head-dress back on before she was able to open up. Porter Brown informed her that it was a funny thing she wasn't ready to have the bed lowered when he was ready to do it.

This discourteous attitude and poor service by Porter Brown cannot be condoned, and he should be held out of service for an investigation on the following charges:

1) Failure to have Compartment "F", Car 203, made down prior to arrival Medicine Hat, Train 2, May 11th.

2) Failure to promptly make it down when passenger boarded train at Medicine Hat and requested this be done.

3) Failure to call passengers detraining at Moose Jaw.

4) Failure to shine passengers' shoes.

5) Failure to promptly comply with request of Nun passenger to lower bed in her roomette.

6) Discourteous attitude towards both the Nun and Mr. Smith.

Yours truly,

(Sgd.) Thos. P. James
Manager."

(Initialled) HH LRS OLH WPB IMP

Mr. Hartman:

We will now deal with the various charges separately and in numerical order as they appear in the Manager's letter dated May 19th, and repeated in my letter to you dated May 26th, 1966.

Q. (1) What do you have to say in regard to your failure to have Compartment "F", Car 203, made down prior to arrival Medicine Hat, Train #2, May 11th, having been advised this space was to be occupied ex Medicine Hat?

A. I admit the bed wasn't down in the room but do not think it was negligence on my part. I was sitting in the space because of the fact that I wanted to watch the indicator.

Q. (2) What do you have to say in regard to your failure to promptly make it down when passenger boarded train at medicine Hat and requested this to be done?

A. I was assisting the Nun with her baggage to her roomette when the occupant for Compartment "F" placed his bags in the room. I then returned to standby on the platform. At this time, the occupant of Compartment "F" came out and asked me why the bed wasn't made down, saying that he was tired and wanted to go to bed. I was waiting for the passenger who was to occupy Lower 1 and I replied that it would only take me a minute to do it and I would do it right away. I went in the car and pulled the bed down and then went back to the platform and told the passenger the bed was made down.

Q. (3) What do you have to say regarding your failure to call passengers detraining at Moose Jaw?

A. I was on my rest period from 2:45 to 6:15 K.

Q. (4) What do you have to say regarding your failure to shine passengers' shoes?

A. I went on rest early, intending to get up early so that I could shine the passengers' shoes. The only shoes I neglected to shine were those belonging to the occupants of Compartment "F" and Roomette 1.

Q. (5) What do you have to say concerning your failure to promptly comply with request of Nun passenger to lower bed in her roomette?

A. I told the Nun that, as soon as I finished receiving, I would go back and lower her bed, to which she agreed. When I went back to lower her bed down, the Sister wouldn't answer my buzz. Mr. Cassidy, assigned to Roomette 1, said that he had pulled the bed down for the Sister. I replied, "Thanks, Mr. Cassidy, for doing my job, sir."

Q. (6) What do you have to say in regard to your discourteous attitude towards both the Nun and Mr. L.R. Smith?

A. I deny that I was discourteous to the Nun and Mr. L.R. Smith.

Q. Have you anything further you wish to say in connection with this Hearing?

(Initialled)
HH LRS OLH WPB IMP

A. I would like to submit an affidavit attested to by J.N. Gardner, Sleeping Car Porter, Winnipeg District, refuting that I was abusive or discourteous to Mr. L.R. Smith in any manner. The declaration reads as follows:

"CANADA)
)
PROVINCE OF)
)
BRITISH COLUMBIA) In the Matter of the Hearing of WILLY PAUL BROWN

TO WIT:

I, JOSEPH NATHAN GARDNER, Porter, of 185 Johnson Avenue, Elmwood,

in the City of Winnipeg, Province of Manitoba,

do solemnly declare

1. That I was employed as a Porter on Train #2 of the Canadian Pacific Railway leaving Vancouver, British Columbia, for Montreal, Quebec, on the 12th. day of May, 1966, and as such have personal knowledge of the facts and matters hereinafter declared.

2. That as I was putting down the stepping-box to receive passengers at Medicine Hat, Alberta, I heard a passenger, Mr. Smith, talking in a loud voice to a Porter, one Willy Paul Brown.

3. That the language used by the said Mr. Smith was abusive.

4. That I definitely heard the said Mr. Smith say to Porter Brown: "Why the hell is my bed not made?"

5. That I heard Porter Brown answer, but the words used by him were not discernible by me.

6. That after the aforesaid took place as described in paragraphs 4 and 5 of this my Declaration, I noted that Mr. Smith and several other gentlemen did remain on the platform for at least 20 minutes, whereupon the train did leave the station at Medicine Hat, in the Province of Alberta.

7. That I have no further knowledge regarding this incident.

AND I made this solemn declaration, conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath, and by virtue of the Canada Evidence Act.

DECLARED before me at the City of)
Vancouver ________________ in the)
Province of British Columbia, this 1st)
________________ day of June,)
A.D., 1966) ________________ JOSEPH NATHAN GARDNER

(Sgd.) M.P. Ragona
....
~~A Notary Public in and for the Province of British Columbia~~
A Commissioner for taking affidavits within British Columbia

Q. Have you anything further to add in connection with this Hearing?

A. Yes. For the record of this Hearing, I would also like to submit, along with the above-mentioned affidavit, that at no time after leaving Medicine Hat did any passenger such as the Nun or the passenger in Roomette 1 or any other passenger as referred to in the charges make any complaint or show any indication that they were dissatisfied with my services or attitude.

(Initialled) HH LRS OLH WPB IMP

Mr. Hartman:

This concludes the evidence in this case.

Q. Are you satisfied with the manner in which this investigation has been conducted?

A. Yes sir.

Mr. Hartman:

I will give consideration to the evidence produced and, in the the prescribed time, you will be advised of my decision.

Hearing concluded at 11:35 A.M. (D.S.T.)

I have read Pages one, two, three, four, five and six and have initialled each to certify the questions and answers are recorded correctly.

(Sgd.) H. HARTMAN

H. Hartman - Superintendent

(Sgd.) L. R. SCARRATT

L.R. Scarratt -
Asst. Superintendent

(Sgd.) W.P. BROWN

W.P. Brown -
Sleeping Car Porter

(Sgd.) O.L. HOLMES

O.L. Holmes,
President,
Brotherhood of Sleeping Car Porters

(Sgd.) I.M. PRICE

I.M. Price - Stenographer

SUBMISSION OF

BROTHERHOOD OF SLEEPING CAR PORTERS

BEFORE AN ARBITRATOR

considering a dispute between the Brotherhood and Canadian Pacific Railway Company in respect of the assessment of discipline - 15 demerit marks - against the record of Sleeping Car Porter W. T. Green, Montreal District, on Charge No. 2 at a hearing held on January 24, 1967.

Mr. J. F. W. Weatherill
Arbitrator

Toronto, Ontario
October 16, 1968

HISTORY OF DISPUTE

On January 24, 1967 a hearing was accorded CPR Sleeping Car Porter W. T. Green, Montreal District, in the office of Mr. H. C. McBurney, Superintendent of the Sleeping and Dining Car Department of the Canadian Pacific Railway Company at Montreal, Quebec, on the following Charges:

1) Failure to report on time for assignment necessitating replacement Line 4203, Train No. 42, December 29th, 1966.

2) Being abusive to Supervisor after reporting late December 29th, 1966.

A copy of the transcript of this hearing is attached to this Submission and marked Appendix "A". Subsequently, on the same date, FORM 104, No. 2, was issued by the District Superintendent informing Porter Green that his record had been debited with Twenty-Five (25) demerit marks for

1)	Failure to report on time for assignment necessitating replacement Line 4203, Train No. 42, December 29th, 1966.	- 10 demerits
2)	Being abusive to Supervisor after reporting late December 29th, 1966.	- 15 demerits
	Total	- 25 demerits

A copy of the said FORM 104 is attached to this Submission and marked Appendix "B".

In a letter dated February 22, 1967 the Brotherhood of Sleeping Car Porters appealed to Mr. T. P. James, Manager of the Sleeping and Dining Cars and News Service of the Canadian Pacific Railway Company, against the decision that was rendered in this case by District Superintendent H. C. McBurney, with particular and sole reference to Charge #2:

"Being abusive to Supervisor after reporting late December 29th, 1966", for which charge, 'though unproven, Porter Green's record had been debited with fifteen (15) demerit marks. The Brotherhood's appeal argument was as follows:

> "Reference to the transcript will reveal the total absence of any corroborative evidence in support of the accusation made by the Platform Inspector, as could validly be deemed to constitute refutation of Porter Green's affirmed denial of this charge. It would appear that the Superintendent at Montreal is unmindful of the indisputable fact that, contractually, a Porter can not be disciplined on an Allegation; he can be disciplined only in instance where the said allegation has been proven and his responsibility established.
>
> For these reasons, it is the Brotherhood's position that these 15 demerits, assessed Porter W. T. Green's record on January 24, 1967, ought therefore to be cancelled, and we hereby request your adjustment accordingly."

A copy of the said appeal-letter is likewise attached and marked Appendix "C".

However, in a letter under date of March 1, 1967 the Manager confirmed to the Brotherhood his denial of the Appeal as follows:

> "The transcript of this hearing was carefully reviewed before approving this discipline, and nothing has transpired since that time to change my decision."

Copy of this letter is likewise attached and marked Appendix "D".

Under date of March 10, 1967, the International Field Representative of the Brotherhood wrote Manager James, in part, as follows:

> "It is totally beyond my comprehension how you could have approved this discipline after having, as you state, "carefully reviewed the transcript of this hearing", since I am satisfied you are fully aware of the contractual requirement, in respect of Porters' investigations, that the accused's responsibility, as charged, must first have been established ere discipline, in any degree and/or of any nature, may be imposed. But, this certainly was not achieved on January 24, in respect of Charge No. 2 against Porter Green, since the charge was not proven, which, I submit to you, is beyond the possibility of successful refutation.

I am also of the firm belief that both you and I know that the guilt of the accused cannot be determined solely on the testimony of the complainant, however impeccable his reputation or character may be, but it is established on the basis of the corroborative evidence adduced at the hearing in support of the charge; - and the accused is innocent until proven guilty.

Therefore, I hereby re-affirm the Brotherhood's position that the fifteen (15) demerit marks, assessed Porter W. T. Green's record on Charge No. 2, January 24, 1967, ought to be cancelled, and I would appreciate hearing from you accordingly, in the interest of Justice."

A copy of this letter is likewise attached and marked Appendix "E".

A tracer, in this regard was necessarily mailed to Manager T. P. James on March 27, 1967, and by letter dated March 28, 1967, the Manager replied to the Brotherhood as follows:

"I have nothing further to add to my reply of March 1."

Copies of these latter two exchanges are likewise attached and marked Appendix "F" and Appendix "G", respectively.

BROTHERHOOD'S CONTENTION

The Brotherhood of Sleeping Car Porters' contention is that Discipline on Charge #2 was not justified by the evidence produced at the hearing accorded Porter W. T. Green on January 24, 1967. In support thereof, the Brotherhood submits as follows:

(a) Discipline is not assessable on unproved statements of fact. He who asserts must prove, whether the allegation be an affirmative or negative one, and not he who denies.

(b) The method by which the truth of an allegation is established is called PROOF. When the burden is cast upon a party proceeding to prove a fact he may do so by adducing evidence and basing argument upon such evidence.

(c) When in the course of proceedings there is an issue of fact to be determined, the question arises: Who is to prove the fact in issue? In general, the rule is that the burden of proof (onus probandi) falls upon that person who must fail on that issue unless he establishes the fact.

(d) In matter of legal procedure, a party is usually required to do more than make his assertion. He is required to prove it. In the instant case, it is inescapable that the charge laid by the Company against Porter W. T. Green of "being abusive to Supervisor after reporting late December 29th, 1966" was not proven. Reference to the transcript of the Hearing accorded the Accused employee on January 24th, 1967 will reveal the absence of corroborative evidence, in any degree whatsoever, in support of the said charge. Porter Green categorically denied this charge, and, surely, the burden of proving his Innocence thereof did not fall upon him.

In the light of the aforegoing, it is herewith submitted by the Brotherhood that the Company's position in respect of this Dispute fails, and, accordingly, the Brotherhood's appeal against the discipline - 15 demerit marks - with which the record of Sleeping Car Porter W. T. Green of the Montreal District was debited on Charge No. 2, in consequence of a hearing held on January 24, 1967, should succeed.

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Appendix "A"

OFFICE OF THE SUPERINTENDENT,
S. D. & P. CAR DEPARTMENT, MONTREAL,

24th JANUARY 1967.

INVESTIGATION HELD FOR:	William Thomas GREEN	Sleeping Car Porter
IN CONNECTION WITH:	Failure to report on time for assignment and being abusive to Supervisor, Montreal, December 29, 1966.	
PRESENT AT INVESTIGATION:	Mr. H. C. McBurney	Superintendent,
	Mr. H. T. Drewett	Chief Clerk.
	Mr. William T. Green	Sleeping Car Porter.
	Mr. M. D. Dash	Secretary, Grievance Committee.

Mr. McBurney: Porter Green, we are here for the purpose of holding an investigation in connection with charges contained in my letter to you dated January 20th, 1967, reading as follows:

" This is to advise you that a hearing will be held at 10:00 a.m., Eastern Standard Time, Tuesday, January 24th, 1967, in my office located in the Sleeping, Dining and Parlor Cars Building, Glen Yard, Montreal on the following charges.

1) Failure to report on time for assignment necessitating replacement Line 4203, Train No. 42, December 29th, 1966.

2) Being abusive to Supervisor after reporting late December 29th, 1966.

(Signed) H. C. McBurney,
Superintendent. "

Q. How long have you been employed by the Canadian Pacific Railway Company as a Sleeping Car Porter?

A. Since June 8th, 1937.

Q. Do you understand the duties and responsibilities pertaining to the position of Sleeping Car Porter?

A. I do.

Q. Are you willing and able to carry out the instructions pertaining to your position with the Canadian Pacific Railway Company?

A. Yes.

Q. Were you the Porter assigned to Car 4203 due to leave Montreal at 7:35 p.m. December 29th, 1966?

A. Yes.

Mr. McBurney: I will now read into the transcript report from Platform Inspector H. R. Walters on duty the evening of December 29th, 1966:

" Porter W. T. Green, due to work sleeper 'Rosser', Line 4203, Train No. 42, ex here date.

Porter Green appeared for work tonight at 7:10 p.m., twenty-five minutes before departure time, of this train. He is due to report for work, at 18:05 k (6:05 p.m.). He was one hour and five minutes late for work.

(Initialled)
WTG
MDD
HTD
HCMcB

When he put in an appearance I asked him why he was so late for work, and started to ask why he had not phoned to say would be late. I did not get a chance to finish, as he became very angry and abusive, using such terms as, 'Don't you try to tell me anything, I'm going to tell you' and started to jab me in the chest with his finger. I told Porter Green that he did not need to take that attitude, as I had asked him a simple question and just wanted a straightforward answer.

... 2

Said I could not see any legitimate reason for his being so late, as other men had allowed themselves additional time to get to work due to the weather and he could have done the same. This man takes the attitude that it is his right to be late for work, and seems to think the Platform Inspector should apologize to him, instead of the other way around. When he continued to be abusive, and made a motion as if to 'brush me off', so to speak, I then told him I was taking him out of service. His car went out in charge of Porter C. J. Marshall.

This, Sir, for your information.

(Signed) H. R. Walters,
Platform Inspector.

Mr. McBurney: In addition I have your statement of January 17th, 1967, which I will now read into the transcript:

" Herein below please find my statement concerning the following points, as required by you, in connection with report from Platform Inspector H. R. Walters:

1. Reason for reporting one hour and five minutes late:

   Because of the heavy snowfall and resultant traffic tie-up on January 2, 1967, not only was bus transportation ex Montreal North to 'Metro' at Henri Bourassa unavailable, but taxicabs, which were indeed quite scarce, would not transport passengers from Montreal North area farther than to the Ahuntsic border. This was my experience the evening of January 2nd, and, being unable to obtain another taxi from that point, I necessarily had to walk the rest of the way to the 'Metro' station. I readily recognized that, in consequence of the unusually considerable time consumed in thus commuting from my home to the C.P.R. Station, Windsor Street, I would be unable to report for duty on my regular assignment, Car 4203, Train No. 42, that evening, but, since I was already en route, I decided, preferably, that I would nevertheless continue on and personally advise the Platform Inspector the cause for my inability so to do. It was about 19:10 k on the night in question that I was able to accomplish accordingly.

2. Explanation for his being abusive to Supervisor:

   I categorically deny this allegation.

3. Explanation for reporting late on other occasions:

   Prior to the advent of 'Metro', I had to depend solely on the alternative means of public transportation for reporting for duty, and found that, whenever it rained or snowed, I would resultantly be about fifteen to twenty minutes late. Such instances were, however, infrequent.

(Signed) W.T.Green,
Sleeping Car Porter, Montreal District.

Q. Your statement twice mentions that January 2nd was the date you were late for your assignment. Are you agreed that it was December 29th and not January 2nd?

A. Yes.

Q. The responsibility for reporting on time rests with the employee. When adverse weather conditions make it apparent that it will be difficult getting to work, the normal thing to do is start out in advance of your regular leaving time. Why did you not do this?

A. I started out from home thirty minutes in advance of my regular time.

(Initialled WTG MDD HTD HCMcB)

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Q. Your failure to telephone the Platform Office indicates a lack of interest in your work. Did it not occur to you that this was the proper thing to do?

A. It did occur to me, but I thought I had given myself sufficient time to get down without any undue delay.

Q. In your statement you deny being abusive to the Platform Inspector. Did you argue with him and did you jab him in the chest?

A. I did not argue nor did I jab him on the chest.

Q. There is evidence of discourtesy and a tendency on your part not to recognize the authority of the Supervisor. What is your explanation for showing disrespect to Mr. Walters?

A. I have not come in contact with Mr. Walters much over the years, and I am always as courteous with him as other members of the staff.

Q. There is also evidence that you consider it is your privilege to be late reporting for duty when the weather is inclement. Do you now understand that you must be on time for work and that continued tardiness on your part can result in discipline.

A. Yes.

Q. Is there anything further you wish to have included before the investigation is completed?

A. I wish once again to deny the statement of Mr. Walters that I would tell him, and that I jabbed him on the chest.

Q. Do you feel you have had a fair and impartial investigation?

A. Yes.

Mr. McBurney: As there is no further evidence to offer in this connection, the investigation is adjourned, and Mr. Green, I will advise you the results within the required time.

(Sgd.) W.T. GREEN
Sleeping Car Porter

(Sgd.) H.C. McBURNEY
Superintendent.

(Sgd.) MARCUS D. DASH
Secretary, Grievance Committee

(Sgd.) H.T. DREWETT
Chief Clerk

COPY

IN THE MATTER OF AN ARBITRATION

BETWEEN THE CANADIAN PACIFIC RAILWAY COMPANY

AND THE BROTHERHOOD OF SLEEPING CAR PORTERS.

AND IN THE MATTER OF THE GRIEVANCE OF W. T. GREEN.

SOLE ARBITRATOR: J. F. W. Weatherill.

A hearing was held in this matter at Toronto on
October 16, 1968.

A. R. Blanchette for the union.

T. P. James for the company.

AWARD

The grievor, a sleeping car porter, was assessed twenty-five demerit marks for

1) Failure to report on time for assignment necessitating replacement Line 4203, Train No. 42, December 29th, 1966.	- 10 demerits
2) Being abusive to Supervisor after reporting late December 29th, 1966.	- 15 demerits
Total	- 25 demerits

The grievor has acknowledged that he was an hour and five minutes late in reporting for his assignment on the day in question. The ten demerit marks assessed against him on that account is not in issue here. The grievor denies, however, that he was abusive to his supervisor on the occasion referred to. The company assessed fifteen demerit marks against the grievor on that account, and the issue before me is whether the company had just cause to do so.

In cases of discipline or discharge there is an onus upon the employer where the matter is brought to arbitration to establish before the arbitrator that it had just cause to take action against the employee. Indeed, even before such a matter goes to arbitration, there is, under the collective agreement in effect between the above parties, a requirement that the responsibility of the employee be established at a fair and impartial investigation. Article 42 of the collective agreement provides, in part, as follows:

> Article 42.
>
> INVESTIGATIONS:
>
> A Porter will not be disciplined, suspended or dismissed without first having a fair and impartial investigation and his responsibility established, such investigation to be held and a decision given within ten (10) days from the time report is rendered, at which hearing he shall have the right to be present, and also he shall have the right to have a recognized representative of the Organization in stating his case at the investigation, and will be given a copy of statement made by him at the investigation.

> All material and necessary witnesses must be notified in writing to appear. If they appear, their evidence shall be taken in the presence of the accused. If they do not appear, the accused shall be furnished with a copy of their written statements. If accused is not satisfied with the decision, he will be given an opportunity of reviewing the evidence and may appeal through his representative to the higher officials. Should the charge not be proven, his record shall be cleared and, if held out of service, shall be reinstated at once and compensated for the wage loss, if any, suffered by him, and reasonable actual expenses. Such compensation shall be the amount of wages he would have earned (minimum of six hours fifty-six minutes - (6'56") per day) less any compensation received in other employment.

In the instant case, an investigation was held on the two charges for which the grievor was disciplined. It was acknowledged that the grievor was late as charged. His responsibility in that respect was established. As to the charge that he had been abusive to his supervisor, the grievor was presented with a statement allegedly made by the supervisor relating to the grievor's conduct upon his late arrival on the day in question. The grievor categorically and repeatedly denied the allegation. The transcript of the investigation is before me, and the grievor was the only witness at the investigation. There is nothing in the transcript - other than the report of the accusation itself - to detract in any way from the grievor's denial.

The company, as it was entitled to do, chose to believe the allegation made by its supervisor, rather than the denial thereof by the grievor. In its presentation of this case, the company set out reasons for accepting the statement of the supervisor, namely that he was a mature, experienced trustworthy person. No doubt that is so: these are reasons why the company might for its own purposes, rely on the supervisor's statement. And if the supervisor had been before me as a witness, then these are matters which I might properly consider in assessing his credibility in the event of a conflict of testimony. The fact is, however, that in the proceedings before me there is no admissible evidence at all to establish that the grievor was in fact abusive to his supervisor. There is only the allegation, and the allegation is denied.

In the presentations made at the hearing of this matter, some reference was made to "corroborative" evidence. Corroborative evidence is evidence which lends support to other evidence: in the case before me, there is no question of corroborative evidence; rather, the case is that there is no evidence at all. The company's case against the grievor might be made out without the necessity of the evidence of a third person, if there were one, who could testify as to any incident between the grievor and the supervisor. As the company quite rightly argues a "third party witness" is not necessary. What is necessary, however, is some witness, and the only "witness" in this case is the grievor himself who, on being questioned by the company, denied the charge. It is impossible for an arbitrator to say, in these circumstances, that the account of one party is to be preferred over that of the other. In the case before me, I can only conclude that the company has not shown that the incident alleged to have occurred, did occur in fact. It has not, then, satisfied the onus of showing that it had just cause to discipline the grievor.

For the foregoing reasons, the grievance must be allowed. It is my award that the fifteen demerit marks assessed against the grievor be removed from his record.

DATED AT TORONTO, THIS 28th DAY OF OCTOBER, 1968.

(Sgd.) J. F. W. WEATHERILL
Arbitrator.

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IN THE MATTER OF AN ARBITRATION

BETWEEN THE CANADIAN PACIFIC RAILWAY COMPANY,

AND THE BROTHERHOOD OF SLEEPING CAR PORTERS.

AND IN THE MATTER OF THE GRIEVANCE OF W. P. BROWN.

SOLE ARBITRATOR: J. F. W. Weatherill.

A hearing was held in this matter at Toronto on October 16, 1968.

A. R. Blanchette for the union.

T. P. James for the company.

AWARD

The grievor, a sleeping car porter, was assessed a total of 95 demerit marks on the following charges:

	No. Demerit Marks
(1) Failure to have Compartment "F", Car 203, made down prior to arrival Medicine Hat, Train #2, May 11th	- 20
(2) Failure to promptly make it down when passenger boarded train at Medicine Hat and requested this be done	- 20
(3) Failure to call passengers detraining at Moose Jaw	- 15
(4) Failure to shine passengers' shoes	- 10
(5) Failure to promptly comply with request of Nun passenger to lower bed in her roomette	- 10
(6) Discourteous attitude towards both Nun and Mr. Smith	- 20
	95

As a result, the grievor was dismissed for accumulation of demerit marks in excess of sixty.

In a case of this sort, there is an onus on the company to establish that it had just cause for the action taken against the grievor. Indeed, even before arbitration proceedings are involved, the company is under an obligation to establish the responsibility of an employee before assessing discipline against him. Article 42 of the collective agreement sets out the requirement that the employee's responsibility be established at a fair and impartial investigation.

As a result of complaints submitted by a number of passengers relating to the grievor's conduct in the performance of his duties on May 11, 1966, an investigation was held on June 6, 1966, following which, on June 10, 1966, the grievor was advised that his record had been assessed with demerit marks in excess of sixty. A further investigation relating to the discipline imposed on the grievor was held on June 13, 1966, but it does not affect the substance of the matter before me.

The grievor was the only witness called at the investigations. He was advised of the complaints made against him and was asked for his explanation. The grievor did give his account of the events in question, and submitted an affidavit of a fellow employee which supported his account in certain respects. The company, as it was entitled to do, preferred the statements of the complainants to those of the grievor. (This is scarcely surprising, one of the complainants being a vice-president of the company). An arbitrator, however, is independent of either of the parties, and can only make a decision on the basis of evidence properly before him. In the instant case, there is no evidence in support of the charges against the grievor, except that which may be found in his own statements made at the investigation. The company's case otherwise rests entirely on the charges themselves.

From the grievor's own statement, it is clear that he was in fact guilty of the offences referred to in charges (1) and (5) set out above. It is acknowledged that demerit marks should be awarded for these, although the union contends that the marks assessed were excessive, having regard to the usual pattern of discipline. In my view, there should be no alteration of the penalty assessed on charge (5); the penalty imposed on charge (1), however, is clearly excessive, having regard to what has been done in similar cases. It is not for an arbitrator to usurp the company's role in the imposition of discipline, but simply to determine whether or not the action taken by the company falls within the range of reasonable disciplinary responses to the conduct of the employee. Having regard to this, it is my conclusion that the assessed penalty on charge (1) should be reduced to ten demerit marks.

Whether the other charges against the grievor are in fact true or not, it is the case that they have not been established in the proceedings before me. The company has not met the onus of showing that it had just cause to discharge the grievor or to assess discipline against him on these charges.

Accordingly the grievance must be allowed. The grievor is entitled to be reinstated in employment with compensation for loss of earnings in the usual way. The number of demerit marks to be assessed against him is to be reduced to twenty.

DATED AT TORONTO, THIS 28th DAY OF OCTOBER, 1968.

(Sgd.) J. F. W. WEATHERILL
Arbitrator.

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RICHARD M. COLASURD
WILLIAM J. MOORE

April 12, 1972

Mr. A. Philip Randolph
International President Emeritus
Brotherhood of Sleeping Car Porters
280 - 9th Ave. at 26th St. - Apt. 5B
New York, New York

Re: Miles, et al. v. The Pullman Company and Brotherhood of Sleeping Car Porters - USDC ND Ill. C.A. 71 C 3121

Dear Mr. Randolph:

Knowing of your dedication to the interest of labor and in particular the organization with which your are identified, it may be that you have learned of the litigation instituted by certain members, formerly headquartered in the Washington, D. C. area, against the Brotherhood and the Pullman Company styled as shown in the above caption. By these proceedings some nine individually named former Pullman employees in their own behalf and on behalf of some alleged 200 or more other former Pullman employees who were members of the Brotherhood seek to recover damages because of their failure to obtain separation pay incident to the termination of operations by Pullman.

You may recall this was a subject covered by an agreement entered into by the Brotherhood and Pullman on May 27, 1968, a copy of which is enclosed herewith as Attachment 1.

Information available to us so far indicates that the individually named plaintiffs, if not others described as being of the same class, were employed by one of the railroads taking over its pullman service prior to termination of operations by Pullman. They therefore by this act severed their employment with Pullman and never became properly classified as furloughed employees such as to permit of a proper claim for separation pay. They were, however, given the benefits of the agreement entered into by the Brotherhood and certain railroads in 1963 commonly referred to as the Wolfe-Randolph agreement, a copy of which is enclosed herewith as Attachment 2.

The contentions in the complaint include charges that the Brotherhood conspired with Pullman to defeat the rights of the plaintiffs to separation pay. This is alleged to arise by virtue of the fact that Pullman on December 3, 1968, caused to be posted at various points a notice stating that separation allowances would not be further bulletined until Pullman had determined that the railroads taking back sleeping car service had satisfied their requirements for porters and car attendants. This notice was vigorously protested by the Brotherhood at the time of its posting because it purported to force Pullman employees to take jobs with the railroads and posed the threat of the loss of separation pay, as well as such jobs. A copy of the notice is enclosed herewith as Attachment 3.

Another of the charges by the plaintiffs is the assertion that none of them ever became aware of the existance of the separate letter of understanding of May 27, 1968, describing the inapplicability of the agreement of that same date to Pullman employees who had or would in the future be employed by the railroad taking over its sleeping car service, until the latter part of 1971, about which time it appears that the groundwork for preparation of the complaint was laid with counsel for plaintiffs. A copy of the letter of understanding is enclosed herewith as Attachment 4.

It is with respect to this last item that you may be of significant assistance in the preparation for and defense of the Brotherhood in this litigation. This case is one of four that have been filed by former Pullman employees against labor organizations and having representation among Pullman employees and The Pullman Company. The other three relate to shop craft Pullman employees. The shop craft contracts with Pullman were accompanied by a similar letter of understanding. It is understood that in the case of the Brotherhood the letter of understanding was circulated together with the agreement of even date to members of the Brotherhood through their local lodges, a procedure also followed by the shop crafts. The shop craft complaints do not include any contention that any employee was unaware of the existance and execution of the letter of understanding.

While the letter of understanding did not, therefore, figure largely in the preparation of the shop crafts' cases we interpreted it as not adding a great deal to what is the import of the last sentence of the first paragraph of Section 3 to Article II of the agreement.

However, inasmuch as it is highlighted for purposes of the complaint in this case, it will be appreciated if you will inform me of the circumstances upon which it was drawn and your understanding of its purpose as concerns the provisions of the 1968 agreement. This information will be helpful for us to determine whether it would be desirable to file an affidavit from you including such facts in conjunction with pleadings to be filed on behalf of the Brotherhood in this case. In your reply we will be indebted for any additional information you may recall which could be of assistance to us in explaining the background of the situation leading to the consummation of this agreement and accompanying letter of understanding.

With kind personal regards,

Sincerely yours,

MULHOLLAND, HICKEY & LYMAN

By William J Hickey
William J. Hickey

WJH/jmd

Attachments

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THE FOLLOWING DOCUMENTS ARE PHOTOCOPIES.

THE ORIGINALS ARE NOT IN THE A. PHILIP RANDOLPH COLLECTION AT

THE LIBRARY OF CONGRESS

ATTACHMENT 1

MEDIATION AGREEMENT - CASE A-7128 SUB 2

MEMORANDUM OF AGREEMENT BETWEEN THE PULLMAN COMPANY AND BROTHERHOOD OF SLEEPING CAR PORTERS

In complete disposition of the request contained in the Section 6 notice dated May 25, 1964, relating to Stabilization of Employment,

IT IS AGREED:

ARTICLE I - PROTECTED EMPLOYES

Section 1 (a) - All employes who were in active service on November 13, 1967, will, if furloughed, be entitled to a separation allowance as hereinafter provided unless or until retired, discharged for cause or otherwise removed by natural attrition. For the purpose of this Agreement, the term "active service" is defined to include all employes working, or holding an assignment, or in the process of transferring from one assignment to another (whether or not the effective date of this Agreement was a work day), or in military service.

Section 1 (b) - The term "employes who were in active service" does not include any employe who was on furlough on November 13, 1967. Employes recalled after November 13, 1967, are covered as outlined in Section 2.

Section 2 - Employes furloughed as of November 13, 1967, who are recalled at any time during the period of November 14, 1967 to and including November 13, 1968, shall qualify for a proportionate separation allowance as hereinafter set forth. The proportionate separation allowance shall be determined by the following formula:

$$\frac{\text{Number of days paid for (paid vacation days included) in the fiscal year beginning with and immediately following the employe's date of first recall}}{\text{365 days (which are the total days in the fiscal year beginning with and immediately following employe's date of first recall)}} \times \text{The applicable separation allowance provided for in Article IV hereof.}$$

EXAMPLE: If an employe is first recalled on June 1, 1968, and in the immediately following 12 months is paid for 150 days, the proportionate separation allowance he would be entitled to would be 150/365 of the applicable separation allowance provided for in Article IV.

When an employe recalled after November 13, 1967 and prior to November 14, 1968, is next furloughed he shall have the option of being paid the proportionate separation allowance he is then due or he may continue his employment relationship with the Company until the 12 month period following his first recall has elapsed. If he continues in an employment relationship until the end of that 12 month period he may if he is on furlough at that time, or when he is next furloughed, either take the proportionate separation allowance or continue his employment relationship with the Company and waive any allowance under Article IV of this Agreement. Such employes shall not be covered by Article III of this Agreement.

The separation allowance outlined in this Section 2 shall not be extended on a seniority basis to the senior employes in the seniority district or group but shall be applicable only to the individuals covered by this Section 2.

Section 3 - Notwithstanding other provisions of this Agreement, the Company shall have the right to make force reductions under emergency conditions such as flood, snowstorm, hurricane, earthquake, fire or strike, provided that operations are suspended in whole or in part and provided further that because of such emergencies the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employes involved in the force reductions no longer exists or cannot be performed. Sixteen hours advance notice will be given to the employes affected before such reductions are made. When forces have been so reduced and thereafter operations are restored employes entitled to preservation of employment must be recalled upon the termination of the emergency.

ARTICLE II - USE AND ASSIGNMENT OF EMPLOYES AND LOSS OF PROTECTION

Section 1 - The Organization recognizes the right of the Company to make technological, operational and organizational changes in consideration of the protective benefits provided by this Agreement.

Section 2 - An employe shall cease to be a protected employe in case of his resignation, death, retirement, dismissal for cause in accordance with existing agreements, or failure to retain or obtain a position available to him in the exercise of his seniority rights in accordance with existing rules or agreements, or failure to accept employment as provided in this Article.

If an employe dismissed for cause is reinstated to service, he will be restored to the status of a protected employe as of the date of his reinstatement.

Section 3 - An employe shall cease to be a protected employe in the event of his failure to accept employment offered to him by the Company or a railroad company for which he can qualify in the area in which he makes his residence and under the conditions outlined in the second paragraph of this Section. The provisions of this Section do not apply to a take over of its sleeping car service by a railroad, which subject is covered by the Wolfe-Randolph Agreement of December 17, 1963.

An employe offered employment by a railroad company under this Section, under an implementing agreement to be made between the interested carrier and the Brotherhood of Sleeping Car Porters, shall be paid an allowance of $2,500.00 to be paid by The Pullman Company at the time of employment by the railroad unless waived by the terms of the implementing agreement but shall not be entitled to the separation allowance provided for in Section 1 of Article IV.

ARTICLE III - COMPENSATION DUE PROTECTED EMPLOYES

Section 1 - Subject to the provisions of Sections 3 and 4 of this Article III, protected employes who held regularly assigned positions on the effective date of this Agreement, or subsequently become regularly assigned, shall not be placed in a worse position with respect to compensation (exclusive of the in-charge and kitchen-work differentials) than the normal rate of compensation for said regularly assigned position on the effective date of this Agreement, or the date he subsequently became assigned, provided, however, that in addition thereto such compensation shall be adjusted to include subsequent general wage increases.

Section 2 - Subject to the provisions of Sections 3 and 4 of this Article III, all other employes entitled to protection shall not be placed in a worse position with respect to compensation than that earned during a base period comprised of the last twelve months in which they performed compensated service immediately preceding the effective date of this Agreement. For purposes of determining whether, or to what extent, such an employe has been placed in a worse position with respect to his compensation, his total compensation and total time paid for during the base period will be separately divided by twelve. If his compensation in his current employment is less in any month (commencing with the first month following the date of this Agreement) than his average base period compensation (adjusted to include subsequent general wage increases), he shall be paid the difference less compensation for any time lost on account of voluntary absences to the extent that he is not available for service equivalent to his average time paid for during the base period, but he shall be compensated in addition thereto at the rate of the position filled for any time worked in excess of the time paid for during the base period; provided however, that in determining compensation in his current employment the employe shall be treated as occupying the position producing the highest rate of pay and compensation to which his seniority entitles him under the working Agreement and which does not require a change in residence.

Section 3 - If a protected employe fails to exercise his seniority rights to secure another available position, which does not require a change in residence, to which he is entitled under the working Agreement and which carries a rate of pay and compensation exceeding those of the position he elects to retain, he shall, while occupying position, be treated for the purposes of this Article as occupying the position which he elects to decline.

Section 4 - A protected employe shall not be entitled to the benefits of this Article if furloughed and offered a separation allowance under the provisions of Section 1 of Article IV or during any period in which he fails to work due to disability, discipline, leave of absence, military service, or other absence from the Company's service, or during any period in which he occupies a position not subject to the working Agreement; nor shall a protected employe be entitled to the benefits of this Article III during any period when furloughed because of reduction in force pursuant to Article I, Section 3.

Section 5 - The Company and the organization signatory hereto will exchange such data and information as are necessary and appropriate to effectuate the purpose of this Agreement.

ARTICLE IV - SEPARATION ALLOWANCE

Section 1 - If one or more employes, other than those employes covered by Article I, Sections 2 and 3, are furloughed, regardless of cause, the provisions of Article III shall not be applicable but an employe, as stipulated in the last paragraph of this section, will be offered a separation allowance in accordance with the schedule set out below.

The separation allowance to be paid to employes whose age does not exceed 65 years and one month shall be based on the following schedule:

Length of Service	Separation Allowance
1 year and less than 2 years	720 hours' pay
2 years and less than 3 years	1,440 " "
3 years and less than 5 years	2,160 " "
5 years and over	2,880 " "

In the case of an employe with less than one year's service, forty hours' pay for each month in which he performed service will be paid as the lump sum separation allowance.

The "hours' pay" as used in this Section shall be based on the employe's last hourly rate of pay.

For employes who have reached age 65 and one month or over, the amount of the separation allowance to be paid shall be based on the age of the employe at his nearest birthday on the date such allowance is offered. The amount of such allowance shall be calculated as follows:

Age at nearest birthday	Allowance
65 and one month	2,400 hours
66	1,920 "
67	1,440 "
68	960 "
69 or over	480 "

In the application of the above separation allowances, the senior employes in the seniority district or group equal to the number furloughed shall have the right on a seniority basis to apply for and be paid the separation allowance applicable to his age bracket.

Section 2 - Employes accepting a separation allowance will also be granted full vacation pay earned up to the time they leave the service including pay for vacation earned in the preceding year or years and not yet granted, and the vacation for the succeeding year if the employe has qualified therefor under the Vacation Agreement. In the event the Vacation Agreement is amended to provide for additional vacation days, such additional payment shall be made to employes accepting a separation allowance.

Section 3 - Each employe entitled to and accepting a separation allowance shall resign from service upon payment of the allowance.

Section 4 - Employes resigning to accept a separation allowance under this Agreement who also apply for an annuity under provisions of the Railroad Retirement Act shall be entitled to the same benefits and privileges that apply to other employes retiring who do not receive a separation allowance.

ARTICLE V - DISPUTES

Section 1 - Any dispute involving the interpretation or application of any of the terms of this Agreement not settled with the Company within thirty (30) days after the date the dispute arises may be submitted by either party for final and binding resolution in accordance with the provisions of Section 3 of the Railway Labor Act, Amended.

* * *

Signed at Chicago, Illinois, this 27th day of May, 1968.

FOR THE COMPANY:

Boeckelman

Director, Employe and
Labor Relations.

WITNESS: F.A. O'Neill Jr.

Member, National Mediation Board

FOR THE EMPLOYES:

A. Philip Randolph

International President, Brotherhood,
of Sleeping Car Porters.

WITNESS: Lawrence Farmer

Mediator, National Mediation Board

ATTACHMENT 2

NATIONAL RAILWAY LABOR CONFERENCE

At Washington, D. C.
December 17, 1963

Mr. A. Philip Randolph, Int. Pres.,
Brotherhood of Sleeping Car Porters
Washington, D. C.

Dear Sir:

In conformity with the assurances I gave to Mr. James Reynolds, Assistant Secretary of Labor, in connection with our mutual desire to dispose of the Section 6 notice your organization served upon the Pullman Company, with particular reference to employee protection, I will submit to the railroads who are now availing themselves of the services provided by the Pullman Company a procedure designed to avoid sleeping car porters and attendants from losing their jobs, as outlined herein below:

1. In the event a Carrier exercises its right under the contract existing between the Pullman Company and the Carriers to discontinue using the services provided by the Pullman Company, sleeping car porters and attendants who otherwise would lose their jobs as a result of the Carrier's withdrawal from participation in Pullman activities will be permitted to follow their work to the extent the Carrier requires the use of sleeping car porters and attendants.

2. In the application of Section 1 hereof a Carrier, upon cancellation of its contract with the Pullman Company, will notify said Pullman Company that it intends to employ a stipulated number of sleeping car porters and attendants, and thereupon the Pullman Company will give this information to sleeping car porters and attendants in the district in which the Carrier's principal operations are conducted, and the sleeping car porters and attendants who desire to accept the proffered employment may do so in seniority order.

3. Sleeping car porters and attendants who are employed by a Carrier in conformity with Sections 1 and 2 hereof will retain their seniority standing insofar as those who accept employment with that particular Carrier are concerned, and they will be paid the same monthly salary under the conditions applicable to them when they were in the service of the Pullman Company. Such sleeping car porters and attendants will also retain whatever vacation privileges they had, based upon years of service when employed by the Pullman Company.

4. The provisions of Sections 1, 2, and 3 hereof will not apply on any Carrier where existing collective bargaining agreements with other labor organizations would prevent such handling.

If you agree that the conditions herein above set forth correspond with the tentative understandings described to you by Mr. James Reynolds, Assistant Secretary of Labor, will you please affix your signature in the space provided therefor at the lower left-hand corner of this communication. If you do so the letter of understanding will be immediately transmitted to Carriers now participating in Pullman activities for ratification, and you will be subsequently advised in connection therewith.

Yours very truly,

/s/ J. E. Wolfe

/s/ A. Philip Randolph
International President,
Brotherhood of Sleeping Car Porters

cc: Mr. James Reynolds
Mr. F. J. Boeckelman

NATIONAL RAILWAY LABOR CONFERENCE

Room 474, Union Station
517 West Adams Street
Chicago 6, Illinois
Telephone: 726-6900

J. E. WOLFE, Chairman

J. J. Gaherin, Chairman,
  Eastern Carriers' Conference Committee
E. H. Hallmann, Chairman,
  Western Carriers' Conference Committee
C. A. McRee, Chairman,
  Southeastern Carriers' Conference Committee

H. E. Greer,
  Director of Research
J. F. Griffin,
  Administrative Secretary

At Washington, D. C.
March 5, 1964

Mr. A. Phillip Randolph, Int. Pres.,
Brotherhood of Sleeping Car Porters,
217 West 125th Street, Room 301,
New York 27, N. Y.

Dear Mr. Randolph:

This is to advise that the railroads listed below have ratified the understanding entered into at Washington, D. C. on December 17, 1963, having for its purpose establishing a procedure designed to avoid sleeping car porters and attendants from losing their jobs to the extent and in the manner set forth therein:

Atchison, Topeka & Santa Fe
Atlanta & West Point
Atlantic Coast Line
Baltimore & Ohio
Chesapeake & Ohio
Chicago, Burlington & Quincy
Chicago & Eastern Illinois
Chicago & North Western
Milwaukee
Denver & Rio Grande Western
Erie-Lackawanna
Great Northern
Gulf, Mobile & Ohio
Illinois Central
Louisville & Nashville
Missouri-Kansas-Texas
Missouri Pacific
New York, Chicago & St. Louis
Norfolk & Western
Northern Pacific
Pennsylvania
Richmond, Fredericksburg & Potomac
St. Louis -San Francisco
Seaboard Air Line
Soo Line
Southern Pacific
Spokane, Portland & Seattle
Texas & Pacific
Union Pacific
Wabash
Western Pacific

Yours very truly,

/s/ J. E. WOLFE

cc: Messrs. James Reynolds
F. J. Boeckelman

Received
Mar 9 1964
Office of the President

EMPLOYES EXHIBIT X2

ATTACHMENT 3

THE PULLMAN COMPANY

165 NORTH CANAL STREET · CHICAGO, ILLINOIS 60606

F. J. BOECKELMAN
DIRECTOR, EMPLOYE AND LABOR RELATIONS

R. J. WURLITZER
MANAGER, LABOR RELATIONS

December 3, 1968.

Mr. L. J. Shackelford
Int'l Field Representative
Brotherhood of Sleeping Car Porters
3947 Drexel Blvd.
Chicago, Illinois 60653

Dear Sir:

Confirming my telephone conversation with you on December 3 the following bulletin is being posted on bulletin boards in all districts and agencies on December 3:

> "TO ALL PORTERS AND ATTENDANTS:
>
> Advice has reached our Management that porters and attendants are not making application for employment with the railroads in the hope of obtaining a separation allowance from Pullman.
>
> No further separation allowances will be bulletined until The Pullman Company determines that the railroads have filled their requirements for porters and attendants in connection with the take over on January 1, 1969.
>
> Any porter or attendant who does not accept employment with a railroad when offered such employment will not be eligible for a separation allowance from The Pullman Company.
>
> /s/ ______________________
> Supt. - Agent - Agent-Foreman"

- - -

Yours very truly,

F J Boeckelman

EMPLOYES EXHIBIT C

ATTACHMENT 4

THE PULLMAN COMPANY
165 NORTH CANAL STREET • CHICAGO, ILLINOIS 60606

F. J. BOECKELMAN
DIRECTOR, EMPLOYE AND LABOR RELATIONS

R. A. McCORMAC
MANAGER, LABOR RELATIONS

May 27, 1968.

Mr. A. Philip Randolph
International President,
Brotherhood of Sleeping Car Porters
217 West 125th Street - Room 301
New York, New York 10027

Dear Sir:

With reference to Agreement dated May 27, 1968, in regard to job protection and separation allowances, it is understood and agreed that Pullman employes who have already or may in the future be employed by a railroad taking over its sleeping car service (even though they may have a furlough status with Pullman) shall not be entitled to payments of any kind under the above mentioned Agreement.

The employes referred to in this letter of understanding are those taken over by railroads which ratified the Wolfe - Randolph Agreement of December 17, 1963.

Yours very truly,

F J Boeckelman

ACCEPTED:

A. Philip Randolph
International President,
Brotherhood of Sleeping Car Porters.

April 27, 1972

Mr. William J. Hickey
Mulholland, Hickey & Lyman
Suite 620 Tower Building
Washington, D. C. 20005

Dear Mr. Hickey:

Thank you for your letter of April 12, with enclosures, re: Miles, et al. v. The Pullman Company and Brotherhood of Sleeping Car Porters - USDC ND Ill. C.A. 71 C 3121.

Although I have retired as International President of the Brotherhood of Sleeping Car Porters I am naturally greatly concerned about its members receiving justice with respect to wages and working conditions.

Since I received your letter I have talked by telephone with Mr. C. L. Dellums, International President of the Brotherhood of Sleeping Car Porters, concerning your discussion of litigation instituted by certain members of the Brotherhood, formerly headquartered in the Washington, D. C. area.

I was glad to know that you are handling the case involving legal action by former Pullman employees to recover damages because of their failure to obtain separation pay incident to the termination of operations by Pullman. Mr. Dellums expressed great faith in your ability and reliability in handling this case.

I shall plan to keep in close touch with International President Dellums in connection with this matter since I may be helpful to him and yourself, especially in relation to the Wolfe-Randolph agreement. The next time I am in Washington, D. C. I will telephone you with the hope that we may have a chat concerning this case.

Sincerely yours,

A. Philip Randolph

cc: Mr. C. L. Dellums

April 27, 1972

Mr. C. L. Dellums
International President
Brotherhood of Sleeping Car Porters
1716-18 Seventh Street
Oakland, California 94607

Dear C. L.

I am enclosing herewith copy of letter, with enclosures, from Attorney William Hickey.

I would like to keep in touch with you concerning developments since it involves developments relating to the Pullman porters recovering damages because of their failure to obtain separation pay incident to the termination of operations by Pullman.

I talked with Shackelford over the telephone a few days ago about this matter. If there is anything you want me to do that may be helpful in connection with this case, don't hesitate to call on me.

Fraternally,

A. Philip Randolph

EXECUTIVE OFFICE OF THE PRESIDENT
PAY BOARD
WASHINGTON, D.C. 20508

11/22/72

DECISION AND ORDER

Application of

Brotherhood of Sleeping Car Porters

Employer : Burlington Northern, Inc.
Union : Brotherhood of Sleeping Car Porters
Employee Unit : 115 sleeping car porters, St. Paul, Minn.
Control Year : Second 4-1-72 to 3-31-73
Pay Board Case No:
Category : III

This case was appealed to the Pay Board from a denial by the Internal Revenue Service of an application for permission to include retroactive payments of wage increases in the base compensation rate, and for an exception to the general wage and salary standard. The case was referred to the Pay Board Category III Panel which considered the appeal and subsequently made its recommendations to the Chairman of the Pay Board. Acting pursuant to the resolution concerning the Category III Panel adopted by the Pay Board on July 12, 1972, the Chairman of the Pay Board issues the following Decision and Order.

On the basis of a review of the entire record, the staff's analysis thereof, and the recommendations of the Category III Panel, it is found and concluded:

1. That the application for permission to make retroactive payments of wage increases were granted by the Internal Revenue Service pursuant to Section 201.18 of the Pay Board regulations.

2. That the above approved retroactive payments of wage increases should be included in the base compensation rate for the first control year.

3. That an exception for the full amount of the pay adjustment submitted for approval for the second control year should be granted pursuant to the criteria set forth in Section 201.11 (d) of the Pay Board regulations.

It is therefore ordered that the application for retroactive wage payments are granted and that the said retroactive payments are to be included in the base compensation rate for the first control year. It is further ordered, that the application for exception be granted and payment of the full amount of wage and salary increases for the second control year be approved. Any wage and salary increases not specifically approved by this Decision and Order shall be implemented only in accordance with Pay Board regulations.

This Decision and Order shall be effective immediately.

George H. Boldt
Chairman

ASA PHILIP RANDOLPH

SUBJECT FILE

BROTHERHOOD OF SLEEPING
CAR PORTERS
Legal Papers
Railway Labor Disputes
and Settlements

Undated

(9)

W. J. STRICKLIN COMPANY
Printers
Stationers
FLORENCE, S.C.

BRIEF AND APPENDIX OF APPELLANT

United States Court of Appeals
FOURTH CIRCUIT

NO. 8729

FRED THOMPSON, *Appellant*

VERSUS

BROTHERHOOD OF SLEEPING CAR PORTERS,
an Unincorporated Railroad Labor Organization,
National in Scope, *Appellee*

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF SOUTH CAROLINA, FLORENCE DIVISION

RICHARD G. DUSENBURY
Florence, South Carolina
Attorney for Appellant

Of Counsel:
DUSENBURY, DUSENBURY & MCKENZIE

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United States Court of Appeals
FOURTH CIRCUIT

NO. 8729

FRED THOMPSON, *Appellant*

VERSUS

BROTHERHOOD OF SLEEPING CAR PORTERS,
an Unincorporated Railroad Labor Organization,
National in Scope, *Appellee*

APPEAL FROM THE DISTRICT COURT OF THE UNITED
STATES FOR THE EASTERN DISTRICT OF SOUTH
CAROLINA, FLORENCE DIVISION

BRIEF OF APPELLANT

STATEMENT OF CASE

Plaintiff brought suit against the defendant alleging that they had failed to negotiate in good faith with the railroad in establishing his seniority on the Mail Porters' Roster and that the agents and officers of the defendant had fraudulently induced the plaintiff to sign waiver of his seniority rights by fraudulent misrepresentations, and that the defendant by its agents, officers, and members had fraudulently conspired to deny plaintiff his seniority rights.

Suit was commenced in State Court, service being made on the local chairman of the Florence Chapter, Brotherhood of Sleeping Car Porters, an unincorporated association (labor union), national in scope.

Defendant removed case to Federal Court (Florence Division) and moved to quash service. Motion was denied pending trial.

Jury trial was commenced, and at close of plaintiff's case, Court granted motion to dismiss complaint and entered judgment for defendant. Motion to vacate judgment and grant new trial was duly made and denied by Court. Thereafter, plaintiff appealed.

QUESTIONS INVOLVED

1. This action does not involve a Federal statute or the Federal Constitution and the case should be remanded to the District Court to be remanded to the State Court for disposition, and there is no diversity of citizenship involved.

2. Was verdict contrary to law and evidence?

3. Did the collective bargaining agreement and not the parties to the agreement determine worker's seniority rights thereunder?

4. Should the "time tickets" have been admitted as material evidence on the issue of whether defendant had notice of plaintiff's proof and rights and whether defendant represented plaintiff in good faith?

5. Should the motion of plaintiff to amend his complaint to allege alternate dates of seniority other than the earliest date originally pled have been granted or ruled upon?

6. Is a waiver signed under duress and especially where one of the parties benefiting from the waiver is responsible for bringing about the duress (economic) binding?

7. On issues of fraudulent misrepresentation, is Federal Court bound by South Carolina law where rights involved flow from Federal Statute, and in any event testimony created issue of fact for jury?

STATUTE INVOLVED

USCA, Sec. 1447 (c):

> If at any time before final judgment it appears that the case was removed improvidently, and without jurisdiction, the District Court shall remand the case, and may order the payment of just costs. A certified copy of the order of remand shall be mailed by its clerk to the Clerk of the State Court. The State Court may thereupon proceed with such case.

STATEMENT OF FACTS

Plaintiff went to work with the railroad in 1946. For the first two years he worked off the extra board as both a Mail and Train Porter. In 1948 he was given a regular assignment as a Train Porter. On January 1, 1947, plaintiff's name appeared on the Train Porters Seniority Roster but not on the Mail Porters Seniority Roster. Thereafter, plaintiff's name appeared on every Train Porters Seniority Roster but never appeared on a single Mail Porters Seniority Roster until Jan. 1, 1957. On that date plaintiff's name appeared with seniority dated October 22, 1956. Seniority was controlled by collective bargaining agreement between defendant and railroad. Defendant was the CBA representative of all porters on the Atlantic Coastline Railroad. Plaintiff made various runs as a Mail Porter in 1946, 1947, 1951, 1953, and 1955. Plaintiff protested to both Railroad and defendant over failure to be listed on Mail Porters Roster after rosters were posted in 1950, 1952, 1953, 1954, 1955, and 1956. All plaintiff's protests were denied until final conference on October 22, 1956.

Collective Bargaining Agreement, Rule 4, (a), provided:

> Seniority of each employee shall begin as of the date of employment in his respective classification * * *.
>
> Rule (g) provided: "Train and Mail Porters may be used interchangeably. Mail Porters assigned to the position of Train Porter will retain seniority as Mail Porter and will begin to accumulate seniority as Train Porter from date first assigned."
>
> Rule 5 (a) provided: "Mail Porters promoted to the position of Train Porter will retain seniority as Mail Porter and when displaced as Train Porter in reduction of forces will be privileged to displace Mail Porters their junior in service as Mail Porters and will retain their seniority as Train Porter * * *."

After protests and correspondence from 1950 through 1956, plaintiff was granted two (2) conferences on his seniority rights between him and representatives of the defendant and the Railroad. The first conference was held on May 28, 1956, and the second on October 22, 1956, at Florence, South Carolina. The Railroad asked to be advised of defendant's position on plaintiff's claim. Defendant took position that plaintiff could have seniority as evidenced by time ticket showing service as mail car porter on May 13, 1953, *if* plaintiff would get other porters whom plaintiff would "jump" to agree. Plaintiff approached these men and they refused to agree. The memorandum of conference held in May, 1956, is as follows:

MEMORANDUM OF CONFERENCE

Florence, S. C.
May 28, 1962

Conference was held in Trainmaster's office, Florence, S. C., 9:00 A. M., May 26, 1956, with the following present:

J. H. Arnold, Trainmaster
Joe Green, Local Chairman
F. N. Thompson, Train Porter
A. J. Pringle, Secretary & Treasurer,
 Train & Mail Porters' Organization

This conference was held in connection with letter of request dated May 4, 1956, from F. N. Thompson to J. H. Arnold, asking that Thompson's name be placed on Mail Porters' Seniority Roster with seniority dated as of July 24, 1948. Review of Thompson's personal record developed application for employment dated December 18, 1945, was for position of porter. After qualifying on Columbia, Wilmington and Charleston Districts, Thompson made first trip as train porter on Train 77 between Florence and Savannah, January 18, 1946. His seniority as train porter was established as of that date, although the first trip made on Columbia District was on February 7, 1946. Records indicate he worked various extra assignments as train porter and mail porter until 1948 when he assumed regular train porter's assignment on Columbia District. He has continued as regular train porter since that time.

Review of seniority rosters on file in Superintendent's office developed Thompson's name first appeared on roster dated January 1, 1947, list-

> ing occupation as train porter and seniority records as of January 18, 1946. Subsequent seniority rosters through January 1, 1956, reflect the same and there is no record of any formal protest of the seniority rosters prior to Thompson's letter of May 4, 1956.
>
> Thompson advised he first made verbal protest to Trainmaster Faulkner in 1950 and subsequent verbal protests to other Trainmasters after each seniority roster was issued. In each instance his request for his name to be included on the mail porters' seniority roster was declined. Thompson has carbon copy of time ticket dated July 24, 1948, signed by Conductor McLaughlin, as evidence of performing service as mail porter on Train 55 between Florence and Robbins that date. He also has copies of time claims for service performed as mail porter on intermittent dates subsequent to the first trip.

Thompson's
request for
listing of name
on seniority
by Trainmaster
was declined

> In view of the time lapse and circumstances involved it was agreed by Trainmaster Arnold and Local Chairman Green that Memorandum of Conference would be prepared and after further consideration of all circumstances the Organization would advise the Trainmaster's office of their position.

The memorandum of conference held on October 22, 1956, is as follows:

Mr. Dusenbury: This is dated Florence, S. C., October 22, 1956.

> Memorandum of Conference held in Superintendent's Office, Florence, S. C., 9:30 A.M., October 22, 1956, for the discussion of the establishment of mail porters seniority for Fred N. Thompson, effective May 21, 1953:

> Present:
>
> C. Patterson, Superintendent
> J. H. Arnold, Trainmaster
> Clement J. Smith, General Chairman,
> Train and Mail Porters
> Joe Green, Local Chairman
> A. J. Pringle, Committeeman
> Fred N. Thompson
>
> Conclusion reached was for train porters and mail porters, through their representatives, to notify the Superintendent at Florence as to what is desired as to the establishing of mail porter seniority for Fred N. Thompson. It was understood by those present that in case mail porter seniority was established by Thompson effective May 21, 1953, no pay would be claimed for time lost since the elimination of train porters on the Columbia District. Also, no time claims would be presented by any men who may be displaced.

On November 7, 1956, Phillip Randolph, National President of defendant Brotherhood, wrote Mr. C. Patterson, Superintendent Atlantic Coastline Railroad, the following letter concerning defendant's position on plaintiff's seniority rights:

> Dear Sir:
>
> Concerning application of Porter Fred N. Thompson of the Columbia District to be placed on the mail porter roster, a discussion of which took place in the Superintendent's office, Florence, South Carolina, October 22, 1956, between Superintendent Patterson, Trainmaster J. H. Arnold, General Chairman, C. J. Smith, Local Chairman J. Green, and Committeeman A. J. Pringle, I wish to request on behalf of the Brotherhood of Sleeping Car Porters that Porter F. N. Thompson be placed on the mail porter roster as of October 22, 1956, which would make him the youngest mail porter on the roster.

On November 16, nine days later, President Randolph wrote to plaintiff advising him as follows:

> May I say that I want to advise that you agree to this proposition as set forth by the Superintendent, namely that you give up any further complaint or claim regarding any mail porter's work you may have performed prior to October 22, 1956. If you don't do this you are not likely to be placed on the mail porter's roster and there will be nothing more the brotherhood will be able to do about it.
>
> Fraternally yours,

Then on November 26, President Randolph writes Mr. Patterson, ACL Superintendent, as follows:

> Permit me to state that Porter Thompson wrote me as of November 20, 1956, as follows:
>
> "Due to my dire need for work to support my family, I am accepting the proposition set forth by Superintendent Patterson, thus abandoning any further complaint or claim regarding my mail porter's service with the Atlantic Coast Line Railroad Company prior to October 22, 1956, providing my name is placed on the mail porter's roster as of that date."
>
> In the light of the statement by Porter Thompson, it is the position of the organization that management, as afore-indicated, place Porter Fred N. Thompson on the mail porters roster as of October 22, 1956.

Member
ship in
the Union

Plaintiff charges that defendant refused to protect his rights or to represent him under the agreement for the reason that he did not belong to the Union. A. J. Pringle, acting Local Chairman, admitted this was one reason: "I told you one reason was he was not a member of the Brotherhood * * *." (Tr. 17), (Tr. 18), (Tr. 20), (Tr. 21).

On May 8, 1956, B. F. McLaurin, defendant's international field supervisor, stated in a letter to plaintiff, "I am sure you were aware that there was nothing I could do until you became a full-fledged member. Now that you have followed through on your responsibility, rest assured we will do the same on this end. * * *." (Tr. 120).

On September 18, 1956, all Train Porter jobs in plaintiff's district were abolished. Seniority as a Mail Porter dated October 22, 1956, had practical effect of terminating plaintiff's employment.

Seniority rosters were prepared by Railroad clerical personnel on basis of their records. Time tickets reflect work performed by porters and specifically whether or not it is as Train or Mail Porter.

ARGUMENT

I

This action does not involve a Federal statute or the Federal Constitutiton and the case should be remanded to the District Court to be remanded to the State Court for disposition, and there is no diversity of citizenship involved.

Action
Started
in State
Court

Plaintiff originally instituted action in State Court, and defendant removed cause to Federal District Court.

The rights asserted by plaintiff in this action do not flow from the Railway Labor Act or any other Federal statute or Constitution. They derive solely from the collective bargaining agreement in force. Decisions upholding actions by employees against unions, employers, and boards as being within the jurisdiction of Federal courts are few. This proposition is annotated in 14 A. L. R. (2d) 1026. Several Fourth Circuit Court of Appeals cases are listed in this annotation. *Malone v. Gardner*, C. A. 4th, 62 F. (2d) 15; *Parrish v. O. R. Co.*, C. A. 4th, 62 F. (2d) 20; *Barnhart v. Western Maryland R. Co.*, C. A. 4th, 128 F. (2d) 709. The rule denying Federal jurisdiction in these "union" cases is qualified by the decision of the Supreme Court in the leading "discrimination" case in this field, the case of *Tunstall v. Brotherhood of Locomotive F. E.*, 323 U. S. 210, 89 L. Ed. 187, 65 S. Ct. 235. The qualification to the rule against Federal jurisdiction in these cases seems to be limited to racial discrimination cases. All of the parties to the suit in this instance are Negroes and the exception to the rule would not seem to be applicable here.

"A Federal Court must in every case and at every stage of the proceeding satisfy itself of its own jurisdiction." 54 *Am. Jur.* 769. This applies to Federal appellate courts as well. The duty may and should be enforced by a Circuit Court of Appeals and by the Supreme Court. (Numerous citations listed under Note 16, 54 *Am. Jur.* 770). "The lack of jurisdiction of a Federal court touching the subject matter cannot be waived or be overcome by consent or agreement of the parties, or by failure to raise the question in the lower court * * *. Where lack of jurisdiction of the subject matter appears, the Court should decide *sua sponte* to proceed in the case." 54 *Am. Jur.* 773.

The mechanics and history of the procedure for remanding actions to State courts from the Federal courts at various stages of process is discussed in 45 *Am. Jur.* 938. The controlling statute is 28 USCA 1447 (c). "If the suit is one within the jurisdiction of the State Court and has been improperly removed to the Federal court, the proper course is to remand it to the State Court, rather than to dismiss it." *Lathrop, S. H. Co. v. Interior Construction & Improvement Co.*, 215 U. S. 246, 54 L. Ed. 177, 30 S. Ct. 125.

II

Verdict was contrary to law and evidence.

Plaintiff demanded a jury trial on issues of fact. Plaintiff pled breach of contract and fraud and deceit. Court directed verdict after plaintiff closed. Proof established collective bargaining agreement and that plaintiff was a third party beneficiary entitled to the benefits of said agreement as an operating porter. Testimony was overwhelming as to fact that plaintiff worked as mail porter; that he had carbon copy originals of his runs as a mail porter; that he made repeated protests year after year both to the railroad officials and to defendant officials; that defendant repeatedly failed and refused to espouse his cause or to protect his rights; that they failed and refused wilfully and maliciously; that they induced plaintiff in the end to sign a waiver by a fradulent misrepresentation by no less person than the international president himself.

A reading in sequence of the three letters written by defendant in November of 1956 is enough to present an issue of fact as to fraud for the jury to determine. Plaintiff presented written proof (Tr. 59) that he brought himself within the 60-day rule for protesting errors in seniority roster, and testimony is cumulative to the effect that the plaintiff had not slept on his rights; that he had done everything possible to secure his seniority. Notice how Mr. Smoak, his superior, put it: "I don't know how persistent it could be except that he used to call me at my house at night, off duty hours, and any time I was in Florence, and come to see me at the office, anytime he saw me on the road and anywhere else." (Tr. 62). A cursory look at the index to the transcript of the testimony will demonstrate the extent of plaintiff's insistence. Just how difficult was it for the defendant and the Railroad to do what the plaintiff wanted? All they had to do was interpret the agreement and apply it to plaintiff as they did to all the other porters and confirm plaintiff's service as mail porter by referring to records in their custody.

At the trial the witnesses for plaintiff necessarily had to be either members of defendant Union or employees of the Railroad. It is revealing to see how little they could tell about how the agreement applied to seniority, but the real clue as to how seniority rights were handled and applied between the parties is to be found from a comparison of the way the other porters were granted their seniority by the stroke of a pen, years after the fact. Notice how—and when—the men behind Pringle on the Mail Porters Roster got their seniority. They did not protest their not being on the Mail Porters Roster for years, and then as if by magic, it appears on the roster with seniority dating back to original service in that classification.

In fact, in most instances they are simply accorded seniority on *both* rosters as of the date of their first run as a porter. Why couldn't they do that for Thompson, the most persistent of them all?

The essence of the case boils down to this: Did the collective bargaining agreement provide that Thompson could have seniority as a mail porter and as a train porter? Did the collective bargaining agreement provide that the seniority would commence as of the time he made a run as a mail porter? If he was not given his seniority as of the first date he made such a run, but during various years thereafter when he made timely protests and when he had made a run as a mail porter in the preceding year and had his time ticket to prove it, whose duty was it to represent him in securing his rightful seniority when the issue was brought to the attention of this representative? Of course, it was the duty of the defendant and all the words of confusion surrounding the issue are nothing but sound and fury signifying nought. Thompson made runs as a mail porter in 1951, 1953, and 1955; these were runs that were made *after* Thompson had commenced his campaign to get his seniority. The Union did not simply neglect to represent Thompson properly, they positively refused to represent him properly, and in the end they fraudulently coerced him into signing a waiver of his seniority. Notice that in 1955 plaintiff is the one writing to Chief Timekeeper for records to establish his seniority.

Protests by the number had been made to Smoak. Did he confront the Union with the simple question of "Why not treat Thompson like you do the others?" Did the defendant look at the time tickets and come to a common sense judgment? No.

Now, if plaintiff had been given his seniority as of 1953, he would never have lost employment. The intentional disenfranchisement of plaintiff by defendant is clearly shown by a careful consideration of the following events and evidence. On May 14, 1953, plaintiff wrote to Patterson, Eastern Zone Supervisor of Defendant about his not being listed on Mail Porters'

Roster, etc. (Tr. 106). On June 4, 1953, replying to this protest letter, defendant's Eastern Zone Supervisor, Patterson, told plaintiff: "I would suggest to you, however, that if you have a chance at this time to establish seniority in the Mail Porters' Roster, you ought to do so." Plaintiff did so. In 1953 plaintiff made several runs as a Mail Porter. Memorandum of the October 22, 1956, Conference even refers to the May 21, 1953, date, which plaintiff testified, was the date on one of the time tickets he produced. Plaintiff testified (Tr. 258) that he made protest again in 1954 when the Roster came out without him being listed as a Mail Porter. Yet with protest having been made to Smoak in 1953 and protest having been made to various officials of defendant during 1953 and they even having advised plaintiff to establish his seniority as a Mail Porter and even then when plaintiff made several runs as a Mail Porter during 1953 and had the time tickets to prove it, when he made his protest in 1954 defendant did nothing; the Railroad did nothing. B. F. McLaurin, defendant's International Field Organizer, stated in a letter to plaintiff dated September 26, 1955: "It is your right to be on both rosters and you can retain your train porter seniority unless there is a permanent opening on the Mail Porters' Roster that you prefer." Again, lest it appear that there must have been some hidden rule or regulation that applied that precluded plaintiff's being accorded his seniority as he requested, attention is earnestly directed to the various rosters showing how when each of the other porters were given their seniority. Plaintiff had gotten in Dutch with defendant by not joining the Union originally, and even when he did join the first time in about 1952, he only stayed in for a short while and when they failed to correct his seniority status, he left the Union again. He became a marked man, and that is the only thing in the record that can possibly account for his treatment. The Acting Local Chairman of the defendant who was called at the trial admitted as much on four separate occasions in the record. (Tr. 17, 18, 20, and 21).

There is a surpassing poignancy in the way the plaintiff himself depicts his plight, and the events that led to it through the years. The letter is dated October 4, 1956, after plaintiff had lost his job and just before the last scene in the drama is acted out by the parties in the conference on October 22. After years of frustration, unavailing persistency, and after being the object of thinly veiled hostility, plaintiff summarizes thoughts almost too deep for words in the following words that give a true perspective to this whole case (Letter of October 4, 1958, from plaintiff to Patterson, Eastern Zone Supervisor):

> Dear Sir:
>
> May I take this time out to express to you an apology as I were explained today that the neglect of the organization in trying to get my name on Mail Porters Roster results from my immediate action or force without the proper "something" and respect to the high offices of the organization. May I say here please accept this statement from within how sorry I am. Thank you.
>
> On September 21st our jobs as train porters were abolished between Wilmington, N. C., and Augusta, Ga. I am now unemployed and my only income at present will be from the unemployment compensation. From time to time I have been trying to establish my name on Mail Porters Roster locally with our local and general chairman, and also with our various trainmasters. Some-

how, I felt long ago that this occasion might would happen and I would have somewhere to work on our district as mail porter even if it wasn't but a couple of days a week. So far I have been unsuccessful. In your letter which I now have in my possession dated June 4th, 1953, reads as follows: "I would suggest to you, however, that if you have a chance at this time to establish seniority in the mail porters roster you ought to do so. It would give you the right under the negotiation to operate either as a mail or train porter."

After receiving this letter from you I immediately wrote trainmaster Mr. J. A. Smoak requesing and protesting that he add my name to Mail Porters Roster as of that date below the youngest man. I have proof of the letter I wrote him and also time ticket dated 5-21-1953 reads as follows: "Worked mail porter on No. 51 Florence, S. C., to Augusta, Ga., total hours—5 hours, 10 minutes. Signed by Conductor J. McBratrey, Columbia District." Why he didn't add it then is the question. I then ask local Chairman Green and Bro. Smith to handle it for me and I received nothing from either one in correspondence.

I were promised by the Brotherhood that I would get the fullest cooperation from them and my name would go on Mail Porters Roster. So may I ask you from within my heart, I request sincerely that if you will inform our general Chairman Bro. Smith in writing, copy to Local Chairman Green, also copy to our trainmaster, Mr. J. H. Arnold, to place my name on Mail Porter's Roster as of May 21, 1953, I will accept that very, very much and will forget about the formal date that I worked as mail porter. I am sure that it will not take anything from the rest of the men that is below.

III

The collective bargaining agreement and not the parties to the agreement determine worker's seniority rights thereunder.

The trial judge in his order directing a verdict (Tr. 297-25) stated: "You start off also with this premise: That the Union does not determine seniority. That is determined by the railroad, who is the employer who hires the man and grades him and sets up his seniority according to his work record with the employer. * * *"

Of course, the seniority rights of the plaintiff are not fixed by the railroad. They are determined by the provisions of the collective bargaining agreement and the parties thereto only apply the provisions to the facts of the plaintiff's service with them. But throughout this whole debacle the parties treated plaintiff's rights as a matter of discretionary and arbitrary determination. Who produced each and every carbon of each and every time ticket. The plaintiff. And yet the Railroad had all the records. Thompson followed Smoak around like a puppy asking him to do something; but did Smoak testify that he had ever made any reasonable effort to interpret the collective bargaining agreement or to find out for himself whether the plaintiff had performed as a mail porter? And Smoak is the man who when asked, "When does a person's seniority as a mail porter begin under the contract? said, "The date that he is employed and he qualifies as such. Usually it is the date that he makes his first run." (Tr. 68-3). In testing this assertion, the Court's attention is invited to all of the rosters for the various years, particularly with respect to when each of the various porters is given his seniority in the two categories. You will notice how often a man is given his seniority on both rosters as of the date the first trip was made —regardless of what classification the run was made in.

When the conference was finally held in which Smoak participated, how were plaintiff's rights dealt with? When Smoak was queried as to what the Railroad offered to do about all the protests, time tickets, seniority, etc., he said: "I left it entirely up to the Brotherhood, because I had the seniority roster before me. That was all the proof in fact that I needed."

Railroad Management

When the defendant—the representative designated to protect the plaintiff's rights failed him—where was his remedy? The Railway Adjustment Board? Hardly. He was accusing his representative of breach of contract and fraud. The law does not require a useless act, and the special circumstances of this case make it pattently clear that plaintiff would be performing a useless act to try to appeal by that procedure.

What sort of determination is it when a man's rights are dependent upon whether or not people who will be jumped—the other porters—have to agree to being jumped before those rights are conferred. Either plaintiff was entitled to his seniority under the agreement or he wasn't, and it is hard to find words to describe a procedure whereby interested parties who will be adversely affected are designated as the judges in fact of the seniority rights in question. Such a procedure is a violation per se of defendant's obligations and responsibilities under the law and the agreement. Does plaintiff have rights under the provisions of the Railway Labor Act and under the agreement? Were those rights violated? Where is his proper forum under the facts and allegations in this case? Of course, in the usual case the Railway Adjustment Board would be the proper forum, but where a worker alleges fraud and breach of contract by his collective bargaining agreement representative the usual appeal procedure whereby the worker is represented by said representative would not be reasonable and should not be pursued when plaintiff can seek his remedies in a court of law.

Court

A closely analogous situation obtained in the case of *Steele v. Louisville & Nashville R. R. Co.*, 323 U. S. 201, 89 L. Ed. 182, in which the Supreme Court stated: "The purpose of providing for a representative is to secure those benefits for those who are represented and not to deprive them or any of them of the benefits of collective bargaining for the advantage of the representative of those members of the craft who selected it." The Court went on to say that Congress had imposed the duty on the representative to exercise fairly the power conferred upon it in behalf of all those for whom it acts, without hostile discrimination against them.

IV

The "time tickets" should have been admitted as material evidence on the issue of whether defendant had notice of plaintiff's proof and rights and whether defendant represented plaintiff in good faith.

At the trial (Tr. 177) plaintiff offered in evidence various time tickets showing various runs plaintiff had made as a mail porter during the years in question and the Court ruled, "that he has already testified to that. There is no use encumbering the record, as I see it." It is respectfully submitted that this ruling was error in that the basic issue in the case was whether defendant had acted in good faith in representing the plaintiff in asserting his rights and essential evidence on the whole issue of contested seniority hinged on plaintiff's proof of his contention that he had made runs as a mail porter in the various years without being given seniority for any such service until the date of the last conference on the matter.

V

The motion of plaintiff to amend his complaint to allege alternate dates of seniority other than the earliest date originally pled should have been granted or ruled upon.

Plaintiff moved to amend so as to allege 1953 and 1955 as additional dates that seniority should have been granted. This motion was made and proof tendered on three separate occasions (Tr. 158, 174, and 269), but the motion was not granted. There is some ambiguity as to what the Court meant in its response to plaintiff's motion on the last occasion when it responded, "Very good. All right." (Tr. 269-12). However, the Court immediately thereafter, responding to defendant's counsel's query as to whether the motion to amend would be taken up subsequent to his motion, said, "Yes," indicating that the ruling on the motion being made for the third time was still being left open. It is submitted that the Court erred in not ruling on this motion for the reason that it is not clear on appeal whether the Court directed a verdict without considering the weight and sufficiency of plaintiff's case from the premise that the motion had been granted or whether the Court intended to direct a verdict on the premise that the plaintiff had not been permitted to amend and proof and offers of proof pertaining to those dates were not to be considered and in fact, were not considered in making the decision to direct a verdict.

VI

A waiver signed under duress and especially where one of the parties benefits from the waiver is responsible for bringing about the duress (economic) is not binding.

The trial judge stated: "As to the signing of the waiver, which ended the situation from a legal standpoint, if it wasn't obtained in a fraudulent manner, I can put no interpretation on what the plaintiff himself testified here, except the sum and substance of it boils down to this: He said that he was in such dire circumstances economically that he had no choice, he was forced—and when he used the word "forced," he doesn't mean that they intimidated or coerced him, as I construe it, but that his economic situation was so serious. He was losing his furniture."

American Jurisprudence, Vol. 17, page 879, in discussing the doctrine of "business compulsion," states: " . . . broadly speaking "business compulsion" is a species of duress, not the common-law duress to be sure, but duress clothed in modern dress. It seems to be established as a general rule, at least in this country, that the payment of money or the making of a contract may be under such circumstances of business necessity or compulsion as will render the same involuntary and entitle the party so coerced to recover the money paid, or excuse him from performing the contract. Nevertheless, "business compulsion" is not established merely by proof that consent was secured by the pressure of financial circumstances. Rather, to constitute duress or business compulsion there must be more than a mere threat which might possibly result in injury at some future time. It must be such a threat that, in conjunction with other circumstances and business necessity, the party so coerced would fear a loss of business unless he does so enter into the contract as demanded." In the Supreme Court case of *French v. Shoemaker*, 14 Wassl. (U. S.) 314, 20 L. Ed. 825, the Court said that "A contract signed because a party is in straitened circumstances and greatly embarrassed and in pressing want of pecuniary means is a voluntary act and binding where the other party to it is not responsible for those circumstances, and did not create those necessities or embarrassments." But in the instant case, the defendant did create the situation that constituted the coersion and on November 16, 1956, after the conference was held the International President himself wrote to the plaintiff the following: "May I say that I want to advise that you agree to this proposition as set forth . . ." etc. . . . "If you don't do this you are not likely to be placed on the Mail Porters Roster and there will be nothing more the Brotherhood will be able to do about it." This letter was, of course, written 19 days after the same International President had already written to the Railroad in response to its request it be advised of defendant's position: "I wish to request on behalf of the Brotherhood of Sleeping Car Porters that Porter F. N. Thompson be placed on the Mail Porters Roster as of October 22, 1956, which would make him the youngest mail porter on the roster." In this case the duress took the form of fraud. Plaintiff testified as to his financial plight and that he had been completely out of work from the time the train porter jobs were abolished in September.

VII

On issue of fradulent misrepresentation, Federal Court is not bound by South Carolina law where rights involved flow from the Federal Statute, and in any event testimony created issue of fact for jury.

If the Federal Court had jurisdiction on this case by reason of the applicability of the provisions of the Railway Labor Act, it would follow that in protecting rights flowing from Federal Statute, the Federal Court would apply Federal law and not State law to the issue of fraudulent misrepresentation in the obtaining of a release from the plaintiff of his seniority claims. Almost in point is the case of *Dice v. Akron, Canton & Youngstown R. R. Company*, 242 U. S. 359, 72 S. Ct. 312, 9 L. Ed. 398, decided in 1952. That case involved the provisions of the Federal Employers' Liability Act. The decision is summarized as follows:

> In an action brought in an Ohio state court under the Federal Employers' Liability Act, in which the plaintiff alleged that a release relied upon by defendant was void because obtained by misrepresentations as to its contents, a verdict was reversed by the Ohio Court of Appeals on the later entered a judgment notwithstanding the verdict on the ground that fraud had not been shown by convincing evidence. This judgment was reversed by the Ohio Court of Appeals on the ground that under Federal law, which controlled, the jury's verdict must stand. The Ohio Supreme Court reversed on the grounds that under controlling Ohio law (1) the release was valid, even though procured by misrepresentations as to its

contents, and (2) the factual issues as to fraud were properly decided by the trial judge rather than the jury.

In an opinoin by BLACK, J., five members of the Supreme Court of the United States approved the judgment of the Court of Appeals on the grounds that (1) the validity of the release was governed by Federal law, (2) the release was void under Federal law, if obtained by misrepresentations as to its contents, and (3) that it was for the jury to decide this question, notwithstanding the local practice to the contrary.

While agreeing with point (1), FRANKFURTER, J., with the concurrence of REED, JACKSON, and BURTON, JJ., held that the case should be remanded for further proceedings on the sole question of fraud. They took the view that Employers' Liability cases were governed by the method of trying the equitable issue of fraud applied by the State in all other negligence cases and that, consequently, it was for the trial judge to decide the issue, but that, in making the decision, he did not correctly apply the Federal standard.

These are the words of the Court:

"We agree with the Court of Appeals of Summit County, Ohio, and the dissenting judge in the Ohio Supreme Court and hold that validity of releases under the Federal Employers' Liability Act raises a Federal question to be determined by Federal rather than State law. Congress in Sec. 51 of the Act granted petitioner a right to recover against his employer for damages negligently inflicted. State laws are not controlling in determining what the incidents of this Federal right shall be. Chesapeake & Ohio R. Co. v. Kuhn, 284 U. S. 44, 76 L. Ed. 157, 52 S. Ct. 45; Ricketts, v. Pennsylvania R. Co., (C. A. (2d) N. Y.), 153 F. (2d) 757, 759, 164 A. L. R. 387. Manifestly the Federal rights affording relief to in-

> jured railroad employees under a Federally declared standard could be defeated if states were permitted to have the final say as to what defenses could and could not be properly interposed to suits under the Act. Moreover, only if Federal law controls can the Federal Act be given that uniform application throughout the country essential to effectuate its purposes. See Garrett v. Moore McCormack Co., 317 U. S. 239, 244, 87 L. Ed. 243, 63 S. Ct. 246, and cases there cited. Releases and other devices designed to liquidate or defeat injured employees' claims play an important part in the Federal Act's administration. Compare Duncan v. Thompson, 315 U. S. 1, 86 L. Ed. 575, 62 S. Ct. 422. Their validity is but one of the many interrelated questions that must constantly be determined in these cases according to a uniform Federal law."

However, even if the law of South Carolina was applicable, the plaintiff made out an issue of fact that should be determined by a jury, and the trial court erred in directing a verdict.

CONCLUSION

For the foregoing reasons it is respectfully submitted that plaintiff should be granted a new trial. In the event that the Court should hold that there is no Federal question, statute or the Constitution involved, then it is respectfully submitted that the cause should be remanded to the District Court with instructions that it thereupon be remanded to State court for disposition, with costs to be assessed against the respondent.

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APPENDIX

ORDER AND OPINION OF JUDGE ROBERT MARTIN DATED DECEMBER 13, 1961

The Court: Mr. Foreman, Ladies and Gentlemen of the jury, I bring you back in here so that you might have some understanding of this matter, because we have spent two days on it.

The plaintiff in this action comes into court by way of his complaint and alleges a cause of action against the defendant brotherhood. The defendant has raised, after the conclusion of the plaintiff's testimony, certain legal questions, which, in my opinion, resolves this case as a matter of law and not a question of fact for your determination.

The essence of the plaintiff's charges, that is, the meat of the coconut, so to speak, is set out in Paragraphs 5, 6, 7, 8, and 9 of his complaint. You will recall that in Paragraph 5 the plaintiff alleges:

> That despite the express provisions of said agreement and despite the repeated requests of the plaintiff of various representatives of the defendant, the defendant wilfully and maliciously refused and omitted to represent the plaintiff or to act in good faith in procuring his seniority rights.

Paragraph 6 alleges:

> That in 1956 representatives of the defendant held two conferences with representatives of the railroad in regard to seniority rights of the plaintiff; the first on May 26, 1956, at Florence, and the second on October 22, 1956, at Florence.

Paragraph 7 alleges:

> That the railroad as a result of the first con-

ference asked to be advised of defendant's position.

The plaintiff alleges:

> That the defendant fradulently conspired with members of Local No. 6, whose status on the mail porters seniority roster would be affected by Thompson's being awarded his rightful seniority status, to defeat and deny plaintiff his rights.

7

Paragraph 8 alleges:

> That after the second and final conference was held between plaintiff, defendant and the railroad, defendant coerced and intimidated the plaintiff into signing a waiver of his seniority rights with the railroad.

7

Paragraph 9 alleges:

> That following said final conference, McLaurin, Field Supervisor and agent and—"So forth"—"wilfuly misrepresented to the plaintiff the effect of plaintiff's signing the aforesaid waiver would have on his seniority status, and wilfully and fraudulently induced the plaintiff to waive all seniority rights under the aforesaid agreement."

As I say, that is the essence of the plaintiff's action that he alleges against this defendant brotherhood.

We start off from a legal standpoint with certain premises that are admitted. The union, so to speak, as a matter of law, owes the obligation to all of the employees that they represent—to represent each and every employee regardless of whether he belongs to the union or not. He owes the obligation, or rather the union owes the obligation to represent in good faith, that is, not to show partiality to one employee as against another employee in their representation of the respective employees. The law requires that.

You start off also with this premise: That the union does not determine seniority. That is determined by the railroad, who is the employer who hires the man and grades him and sets up his seniority according to his work record with the employer.

Now, the union has the right and it is the policy— where there is a dispute as between the employer, which is the railroad company, and any employee over seniority rights, the union enters into it, as the representative of that employee insofar as adjusting those differences as to the disputed seniority rights.

However, we in this court cannot pass upon the question of whether the seniority rights were rightly or wrongly concluded. Under the National Railroad Act, jurisdiction to determine an employee's seniority rights is exclusively fixed in that board and not in the courts.

So we have this premise involved: Whether this man was done right or wrong, as far as his seniority rights are concerned, this court cannot determine. That would have had to be determined under the Railroad Labor Act, and that is the only tribunal, and the machinery set up there is the only means by which that question can be adjudicated.

Therefore, as I say, whether he was treated rightly or wrongly, as far as his seniority rights were concerned, by the grading that the railroad gave him, would have to be determined by that means and not by a court action, because the court has no jurisdiction under the Act of Congress to go into that. On the theory of this: That these are more or less technical matters, that you and I, and even lawyers, don't understand. It takes somebody accustomed to the trade and the understanding to determine those issues. That is why we have been lost here for practically two days, because that has been involved, although it is not involved.

In order for this plaintiff to have a cause of action under the theory that he has brought his action here, he, in effect, would have to affirmatively, by competent testimony in this case, establish fraud on the part of the union in its dealing with him as an individual. You will recall that I read you those specific charges that he makes in reference to what he contends the union did that was wrong as far as he was concerned.

However, it is not a question of what he alleges. It is a question of what he proves as to whether or not he makes out a case or not.

Now, in order to make out a case under the theory of fraud—because he is operating under the law of South Carolina insofar as that is concerned—he must show affirmatively that there was a representation made, that it was false, that it was material, the speaker's knowledge of its falsity, the intent that it should be acted upon by the person to whom it was made, the ignorance of its falsity on the part of the person to whom the statement was made, that the person to whom such false statement was made relied on it as the truth, that he had a right to rely on it, and his consequent and proximate injury resulting therefrom.

Now, that is what the law says that he would have to show affirmatively before he would be entitled to go to a jury on the question of fraud and deceit, because that in effect is what he is claiming here.

Now, let us look first at his complaint. He alleges in Paragraph 5 that the defendant wilfully and maliciously refused and omitted to represent the plaintiff or to act in good faith in protecting his seniority rights.

Now, under the contract to protect his seniority rights, as they were posted each January, it wasn't up to the union to examine that list and protest within the 60 days as provided by the contract, if he wasn't properly listed as to seniority. It was up to the employee. So he can't complain of that insofar as the union is concerned. He had the duty himself, in protecting his own interest in the first instance when these lists were publicized, to make the complaint to the railroad company, not to the union, because, as I say, the railroad company is the one that fixes the seniority rights, not the union. If a dispute develops between the railroad company and the employee, of course the union intervenes as his representative.

But I can find no evidence in this case to where I can conclude from a reasonable interpretation of this evidence that this defendant, this brotherhood, made any false representation to him, on which he relied to his detriment, and which proximately resulted in his injury. Insofar as those listings were concerned, it was his duty, not the brotherhood, to call it to the attention of the railroad company. And if it wasn't done in 60 days, under the contract, it is barred thereback.

The same situation would arise each year when those lists were published. It would be his duty each year, because he is the one involved.

Before, as I say, he could make out his cause, from the standpoint of the theory that he has brought his case on, and the other allegations there in reference to a conspiracy as between the union and the other porters who had seniority over him, there is nothing in the way of any fraud involved in that, from the standpoint of the testimony in the case. There is not one word of testimony to show any collusion as between the union and the others who had seniority over this man from the standpoint of keeping him from rolling them, so to speak, in union language, because the seniority rights are vested rights. The union can't trade them. The employee can't trade them. It can be done by agreement, which was evidenced by the testimony here, which reflected that they told him that it was all right with them if he could get these others who had seniority over him on the list to agree to it. There is nothing fraudulent about that.

No collusion
between the
Union and
others who
had senior
ity over
Thompson from

As to the signing of the waiver, which ended the situation from a legal standpoint, it if wasn't obtained in a fraudulent manner, I can put no interpretation on what the plaintiff himself testified here, except the sum and substance of it boils down to this: He said that he was in such dire circumstances economically that he had no choice, he was forced—and when he used the word "forced," he doesn't mean that they intimidated or coerced him, as I construe it, but that his economic situation was so serious. He was losing his furniture. He had worked the job and was satisfied with it undoubtedly, because that is where he protected his seniority as a train porter, and as he, himself, testified that was the better job than the mail porter until they were cut off. And that is what threw the fat in the fire. If those train jobs were still open, we wouldn't have been here for two days. He would have been happy and satisfied, in my opinion. But of course he had not protected his seniority or even established it to the satisfaction of the railroad company as a mail porter up until that time. And that is what caused the difference and the dispute.

If train
porter's jobs
had not
been aboli
shed, no
one would
have been
stopped by
Thompson
ex his sen
iority rights
as a mail porter

But I see no evidence in the case that I could submit to you from the standpoint of the plaintiff by any competent testimony making out an issue of fraud and deceit. For that reason, I am granting the motion as to an involuntary motion of dismissal.

Fix an Order along that line just formally.

TESTIMONY

(Excerpts from Transcript of Testimony):

A. J. PRINGLE, Acting Local Chairman, Brotherhood of Sleeping Car Porters:

* * *

[17] A. No, I told you one reason was he was not a member of the brotherhood. I mean, he wasn't a member. He wasn't paying dues. I say, I think that was one reason. Isn't that what I told you?

Q. And why did you think that?

A. Well unless a man belongs to an organization and paying dues into it, why he don't get the consideration that a man is paying dues. Do he? Well what do you think of that?

Dues
membership

* * *

[20] Why wasn't he given his seniority ahead of the men who made runs after 1953?

A. That's the thing I do not know, sir.

Q. What did you tell me this morning was the reason?

A. Well, I don't know. You mean, concerning the dues, paying the dues?

Q. That is right.

A. Well, I told you, I said the men—just like I tell you just now, they are not interested in a man, looking after him, unless he was up in the organiza-

Union
and member-
ship

tion. Now that was the main thing I told you this morning. You remember that?

Q. And is that still your policy?

A. As far as I know.

Q. And it was your policy then, as far as you know?

A. Well, I don't know about then. But I mean, that is the policy in general, not particularly mine, but it is the policy in general.

Q. Who did you talk with to learn what this policy was?

A. Well I didn't have to talk with anybody. Whenever we have meetings, our Eastern Zone Supervisor, he tells us a few little things.

[21] Q. Who is that?

A. Mr. B. F. McLaurin.

Q. How about Clement J. Smith?

A. He tells us a few things too.

Q. About policy?

A. Well concerning of—well, as I say, the biggest thing that we are interested in at that time was dues, and if a man were not paying dues, we were not interested in telling him too much about what was going on.

Dues

Q. You weren't interested in helping him otherwise?

A. Oh, I would be glad to help him any way I could, but so far as what he could get into, why, unless a man—unless he belongs to the organization, why, it is just a matter of he is not capable of getting into the things he should.

Q. If Fred Thompson made runs as a mail porter every year up until 1946 or 1948 to 1956, why wouldn't his seniority be given to him as of the year following his first run?

A. I don't know, sir.

* * *

[24] Q. But you specifically remember back as far as in [25] the '40s he worked as a mail porter, didn't he?

A. I do.

Q. You knew that when you went to that conference, didn't you?

A. Sure, yes, sir.

* * *

[28] Q. Now do you know of any other reason other than he wasn't a dues paying member why his seniority was not back to the first date?

A. No, sir, I don't.

* * *

[45] Q. Now at the meeting, as I understand it, the railroad said it would give him the seniority if it were agreeable to the other people, is that what you are telling us?

A. As far as I can understand, yes, sir.

* * *

[47] Q. And didn't the railroad specifically say they would do whatever the brotherhood recommended?

A. I think the railroad did.

Q. The railroad did that, didn't it?

A. The railroad did whatever the brotherhood recommended.

* * *

[51] Q. Isn't it true that at the conference a member of the railroad said "Why can't you all agree to place Fred back in 1953?" Didn't he ask the brotherhood that?

A. He asked the officers, yes. I think he did.

J. A. SMOAK, Trainmaster, Atlantic Coast Line Railroad:

[58] Q. I hand you a memorandum here with your name at the bottom of it. Have you ever seen that before?

A. Yes, sir, I wrote it.

Q. You wrote it. When did you write that?

A. Febraury 9, 1953.

Q. February 9, 1953. When was the seniority roster [59] for mail porters posted that year?

A. The first of each year, I believe; January 1.

Q. Right.

A. It may have been two issues a year. I am not real sure.

Q. And February 9 is within how many days afterwards?

A. It is about another month and a half after the roster. I believe the roster was published as of January 1 of each year.

Q. Now I ask you if this memorandum here has to do with any of the negotiations that you had had with Fred Thompson concerning his mail porter's seniority?

A. Yes, sir.

Mr. Dusenbury: We offer this in evidence.

Mr. Nettles: I have no objection.

Q. We ask that you publish this to the jury, if you will please.

The Clerk: Let me mark it.

Memorandum to F. N. Thompson, Porter from J. A. Smoak, dated February 9, 1953, marked in evidence as Plaintiff's Exhibit No. 3.

Q. I ask you to publish the memorandum to the jury.

A. "Florence, February 9, F. N. Thompson, Porter: [60] "Reference to our conversation concerning your seniority status as mail porter: My handling of this matter develops the seniority roster dated January 1, 1953, for Train and Mail Porters is correct. You are not entitled to mail porter's seniority on this roster, and you cannot exercise your seniority as such." Signed J. A. Smoak.

* * *

The Court: When were the train porters discarded or cut off? Do you recall?

A. It was in '56, as I recall. * * *.

* * *

[62] A. I don't know how persistent it could be except he used to call me at my house at night, off duty hours, and any time I was in Florence, and come to see me at the office, any time he saw me on the road and anywhere else.

* * *

[66] Q. What did the railroad tell—did you have a discussion and negotiations with the brotherhood over this?

A. Yes, sir.

Q. What was the position of the railroad?

A. The railroad did not have a position. I was handling the case for Thompson. As far as the railroad was concerned, the seniority roster had been posted each year from the time that Thompson was hired or employed, and it showed his seniority as a train porter. He was protesting that. All the railroad did, and I was representing the railroad at the time, was to assist. He made a protest or complaint to me as his direct supervisor to see what could be done about it, and I did just what the meorandum has indicated. I called a conference of the brotherhood. Of course I acted as the railroad go-between.

Q. What did you offer to do in that conference?

A. I did not offer anything.

Q. What did the railroad—

A. I left it entirely up to the brotherhood because I had the seniority roster before me. That was all the proof in fact that I needed. It was up to the brotherhood to either grant it or change it, and then it would be up to the railroad to decide. If it would hurt the railroad, nautrally we would probably take exception to it. But the [67] railroad couldn't do anything about it until the brotherhood gave their approval of a change in the contract or the seniority list.

* * *

Q. When does a person's seniority as a mail porter begin under the contract?

[68] A. As a mail porter?

Q. Yes.

A. The date that he is employed and he qualifies as such. Usually it is the date that he makes his first trip.

* * *

[92] Q. Now could a man be on both seniority lists?

A. On that particular list?

Q. As a train porter and as a mail porter at the same time?

A. Yes, sir.

* * *

[95] Q. Was Thompson qualified as a mail porter?

A. No doubt he was, but he was not in the seniority roster as a mail porter, and to my knowledge prior to his protest had never served or worked a day as mail porter.

FRED THOMPSON, Plaintiff:

* * *

[102] Q. When is the first time that you found

out that your name was not listed on the mail porters seniority roster?

A. In 1950.

Q. Had you ever received any copies of the seniority rosters before that time?

A. No, sir. The first copy of the mail seniority roster that I received was in 1950, and that is when I protested to Mr. Charlie Faulkner who was the trainmaster at that time.

* * *

[104] A. When I first protested about my seniority, the trainmaster said they—

The Court: Call names. That is the only way we can follow you.

A. Mr. Faulkner was the trainmaster, and he told me that I would have to take it up with the local chairman.

Q. Did you?

A. I did.

Q. Did they do anything about it?

A. No, sir.

* * *

[105] Q. Did you see the roster that came out in the beginning of the year 1953?

A. Yes, sir.

Q. Was your name on that mail porters roster?

A. No, sir, it was eliminated. It appeared on the train porters roster but did not appear on the mail porters roster.

Q. Did you make the regular protest within 60 days to Mr. Smoak?

A. Yes, sir, I did.

Q. Did the brotherhood do anything?

A. No, sir.

Q. Did you go to the brotherhood?

A. I went to the local chairman Joe Green, and in return he wouldn't act, and I went through procedure. I went right on to the general chairman who was Mr. Clement J. Smith. He didn't act, and I went right on. I wrote the eastern zone supervisor. The name was Patterson.

* * *

[107] "While I regret this situation, I see no way that we can legally change it. I believe this matter has been explained to you on different occasions by Brother Smith. And while I appreciate how you feel about having your name excluded from the Roster as a Mail Porter, we cannot correct it under our present Agreement.

Chairman
& Brother
Patterson
Eastern Zone
Supervisor

"I would suggest to you, however, that if you have a chance at this time to establish Seniority in the Mail Porters' Roster you ought to do so. It would give you the right under the unfinished proposed Agreement that is under negotiation to operate either as a Mail or Train Porter.

"With kindest regards for you and family.

"Fraternally yours,
Thomas Patterson
Eastern Zone Supervisor"

To: F. N. Thompson, dated June 4, 1953.

* * *

[113] Mr. Dusenbury: Your Honor, we offer this in evidence at this time as the book of Fred Thompson reflecting his runs as mail porter during the year 1955.

* * *

[114] Q. Just as a summary question, did you also make runs as mail porter in other years?

[115] A. Yes, sir. I made them in '51 and I think, I recall, '52. Then the time tickets are dated in '53. For the year 1953 is in that book.

Mr. Dusenbury: Your Honor, we would offer these.

The Court: Not unless you are going to tie it up as the basis. You are doing nothing but encumbering the record.

* * *

[117] Letter dated September 26, 1955, from B. F. McLaurin, International Field Organizer, to Fred N. Thompson, marked in evidence as Plaintiff's Exhibit No. 8.

* * *

[118] "Now, as to your losing seniority because you transfer from one roster to another, it is not reflected in the contract. It is your right to be on both rosters, and you can retain your train porter seniority unless there is a permanent opening on the mail porters' roster that you prefer. If not, then you would not lose the years you now have as a train porter. Brother Smith, your General Chairman, will be in Florence shortly and I am advising him to take up this matter with you.

* * *

[122] Letter from B. F. McLaurin, International Field Organizer, to Fred Thompson. Dated May 8, 1956.

"Dear Brother Thompson:

"I have your letter of May 3, 1956, and have carefully noted the contents. I am sure you were aware that there was nothing I could do until you became a full fledged member. Now that you have followed through on your resposibility, rest assured that we will do the same at this end. I have instructed your local chairman to request a formal hearing on your case. I trust that you will cooperate in every way possible to get this case started in order that we may be able to process it into the railroad.

Member

* * *

[129] A. After the management agreed to place my name on the mail porters roster, they asked the brotherhood their position, and they said "No, we can't do that. We can't place his name on the roster." And then the superintendent asked him "Why can't you do it? If he is entitled to it, why can't you place his name on the roster?" They said, "No, we can't do that. We will have to get in touch with the New York office."

* * *

[132] Letter from B. F. McLaurin, International Field Organizer, to Fred Thompson, dated November 29, 1956:

* * *

[133] "If I made the statement that you would be below the sixth man on the roster and October 22nd does not bespeak the truth of my statement, then I am in error and I wish to apologize for I had no idea at the time I was talking to you what the relative positions were although I knew that sooner or later you would have a place on the roster.

* * *

Q. Now he refers to a conversation that he had with you as to your position on the roster. What was that conversation?

A. He said that the Brotherhood would see to it that my name was placed on the mail porters roster.

Q. As of what position?

A. As of the date that I requested.

Q. And what date was that?

[134] A. That was after my second time—

Q. What year was that in?

A. 1953.

* * *

Letter dated September 18, 1956, from A. Philip

Randolph, International President, to Fred N. Thompson, marked in evidence as Plaintiff's Exhibit No. 16.

* * *

[135] "Your letter to Brother George C. McNair of the Atlantic Coast Line Train Porters Local has come to my attention. I note your concern about being placed on the seniority roster of the mail porters.

"May I say that this case has been thoroughly explored and handled to conclusion by Brother T. T. Patterson, Eastern Zone Supervisor.

"I understand from Brother Patterson that nothing more can be done about it since no substantial evidence was produced to justify your claim.

* * *

[142] This is from the Auditor of Disbursements showing the wage earning record of Fred Thompson with the Atlantic Coast Line Railroad for the years 1946 through 1957. Just in round figures:

1946	$ 900
1947	1600
1948	1900
1949	2500
1950	2200
1951	2600
1952	2800
1953	2700
1954	3000
1955	3200
1956	2700
1957	566.27

And in '58 on, none; not any.

* * *

[149] A. It was the brotherhood and the management agreed that I sign that waiver, because I wrote—soon after I signed it, I wrote the brotherhood

and told them in the letter there—I wrote the brotherhood and told them that I had to sign the waiver because the brotherhood told me that [150] if I didn't sign the waiver, I was to become likely not having to do anything. So I had to sign the waiver in order to have some type of work to be doing.

Q. Who in the brotherhood told you that?

A. That was Mr. Thomas Patterson.

The Court: Was he here at the meeting?

A. No, sir. He wrote that from New York.

The Court: The letters speak for themselves.

A. Yes, sir. He wrote that from New York.

The Court: What I want to know, down there at that meeting, who connected with the brotherhood made you do anything?

A. That was Clement J. Smith, General Chairman.

The Court: And what did he make you do?

A. Joe Green, Local Chairman, and A. J. Pringle, Committeeman.

Q. What did Smith say would happen to you if you didn't sign it?

A. I would just be out. I wouldn't have no run at all. And I would be relinquished from the list. I wouldn't have no mail porter job at all.

* * *

Q. What was said about getting the other members to let you jump them?

A. They said—they told me to ask the men—Clement [151] J. Smith, A. J. Pringle and Joe Green told me to ask the men if they would agree that my name be placed ahead of them on the mail porters seriority roster, and they declined. Naturally they would because I was—

Porters objected to Thomp being placed before them

Q. Did you contact the men and ask them?

A. Yes, sir, I asked every one of the extra men that was hired at that time, and they said no. Naturally they would say no, because that would put them down on the list.

Q. Was your run as a mail porter as of '53 ahead of the men you contacted?

A. Yes, sir, indeed.

* * *

[174] Q. It says effective May 21, 1953. What does that effective date mean?

A. That was the date that I made the train porter—I mean, extra mail porter trip.

Q. Extra mail porter trip?

A. That's right.

Q. And what proof did you have of that?

A. The time ticket.

Mr. Dusenbury: Your Honor, at this time we move to amend our complaint to allege 1953, as well as 1948, and to offer evidence of the 1953 runs.

* * *

[177] Mr. Dusenbury: Your Honor, we would like to make one final tender of evidence of all of these time tickets which show mail porter runs during the various years of the issue of knowledge on the part of the brotherhood that he had prior seniority. We offer them in evidence.

The Court: How do you bring that home to the brotherhood? Isn't that a time sheet between the employee and the railroad company?

Mr. Dusenbury: Yes, sir. He testified that he showed them these time tickets.

The Court: Well he has already testified to that. There is no use encumbering the record, as I see it.

* * *

[182] Q. And no protest was made in 1950?

A. Yes, sir. It was, sir.

Q. Now who was that protest made to?

A. That protest was made to a Mr. Charlie Faulkner, who was our respective trainmaster at that time.

* * *

[183] Q. Now, then, I notice that everything was in writing between you and the organization from '53 on. Did you write the organization then?

A. Yes, sir, I wrote the organization immediately after I had verbally protested to Mr. Charlie Faulkner, because he advised me to get in immediate contact with the local organization.

Q. Who did you write?

A. I wrote to—I had a conference with Joe Green, which was the local chairman. I was referred to Clement J. Smith, which was the general chairman. After Joe Green didn't do anything about it, I went through procedure to Clement J. Smith. I wrote Clement J. Smith a letter stating what the trainmaster's position was.

* * *

[184] Q. You say, you didn't see the 1951 roster?

A. I did not—I said I did not receive a copy of the roster in 1951. I did not do anything during that year of 1951, but continued my regular run. But when the 1952 roster came out, that is the time that I immediately got back into it with our local organization, in which Joe Green was local chairman.

* * *

[185] A. I in turn went back to the trainmaster, which was Mr. J. A. Smoak and told him that my name was left off the mail porters roster, and he said "Why?" And I said "I don't know." I said I was left off the general roster. That was immediately

after I received the 1952 roster, which the ruling said that you had to protest it within 60 days. We received our copy of the '52 roster in January of 1952. That is the time I wrote the trainmaster, and I told him that my name was left off the mail porters roster. At that time, if you will notice, there was another man hired right behind there.

* * *

[191] Letter of August 28, 1952, to Fred Thompson from Thomas Patterson, Eastern Zone Supervisor:

Pattison to Thompson

* * *

[192] As you are aware, the employees are hired as Mail Porters, and then are stepped up, when the ocacsion presents itself, to the job of Train Porter. If there is no Train Porter's job, the employee may return to the Mail Porter's job, if there is one, but as soon as an opening in the Train Porter's [193] job presents itself, it is his obligation to return to that job.

* * *

[196] Q. So then, there was no way you could operate so as to acquire seniority?

A. Yes, I did. I went back to the mail car and established seniority, in the mail car.

Q. You did just what he told you to do.

A. That's right.

* * *

[197] Q. On the January 1, '54 roster, you were shown as No. 4 on the train porters list.

A. Yes, sir.

Q. And it did not show you on the mail porters list.

A. That is correct.

Q. Now did you make a protest?

A. Again I corresponded.

* * *

[198] Q. Now then in 1954, another portion of

Plaintiff's Exhibit No. 4, there is a note from Mr. Smoak to you dated October 15, 1954, referring to a letter from you dated October 10.

A. Yes, sir.

Q. And this says: "This will acknowledge receipt of your letter dated October 10 requesting your name to be added to the mail porters seniority roster below the youngest man now listed. This request will be taken under consideration and you will be notified as to decision rendered."

* * *

[208] Q. All of this time you were trying to get on the mail porters runs—I say, all of this time, but as far back as May 3, 1955, you had been trying to get mail porter's runs.

A. I was trying to get my mail porter's seniority established, sir. And may I say, if you will permit me, sir, I will say this: In 1950 what opened my eyes to the fact that the name had to appear on both rosters was a Richmond District Train Porter—he was going to Wilmington—

* * *

[216] Now after that time, as I gather it,—you can correct me if I am wrong,—the railroad said "We don't care as long as the men he would displace don't care, and if he will get them to agree to it, we will do it." Isn't that what the trainmaster said, or what the management said?

A. The management said that they would agree to put me on the roster as of the date that I made my first trip if the brotherhood would agree.

Q. Well didn't it ultimately get back to whether the [217] other members you would then be displacing would agree to it?

A. It did. It finally went back to them.

Q. And so after May 28, 1956, you were—I believe you testified that you were canvassing these men to see if they would be agreeable.

A. I was told to ask those men by the brotherhood would they agree.

Q. The brotherhood told you to ask these men if they would agree to that.

A. That's correct.

Q. Now then, you did ask them, as I understand it, and they wouldn't agree to it.

A. No, sir, definitely not.

* * *

[218] Q. Because in effect they would be giving up their job to you. That is the short of it, isn't it?

A. They could not give their job to me because I was ahead of them on the Atlantic Coast Line Railroad.

Q. If they elected to stand on the rosters as published, under the contract between the railroad and all of the employees, then to have changed that, giving you seniority ahead of them, might well have meant the loss of their jobs.

A. I could not verify that, sir.

Q. Well it would have given you seniority ahead of them.

A. All of the men that was hired knew that I was there first.

Q. Well they were on the seniority list.

A. Yes, sir, and I was not.

Q. And you asked them "Will you consent to my being placed on the seniority list?" And they simply told you no, because they wanted to protect their jobs.

A. Definitely not, they definitely wanted to say no.

[219] Q. Now I gather that you don't contend that they didn't have the right to say "We are going to stand on our rights."

A. Everyone stands on their own rights.

Q. And they had a right to stand on theirs.

A. Sure, as far as they know.

Q. That's right. And you aren't claiming that the botherhood could make them give up their rights if they thought they had them, are you?

A. No, but it was the position of the organization to ask the men would they agree. That was the position of the organization.

Q. I thought we got that settled. After the conference, the brotherhood—well, the agreement was that if the men would agree, the management would agree, and the brotherhood told you to ask these men and see if they would agree or to see if you could get them to agree, let's say.

A. It was not my place to ask them that.

The Court: Don't argue with him.

Q. Well you did ask them. Didn't you say so?

The Court: Is that what was said? That is what he is asking you.

A. Yes, sir. Pardon me, your Honor.

* * *

[224] Letter dated October 9, 1956, to Fred Thompson from A. Philip Randolph, International President of the Brotherhood.

arr

"Dear Mr. Thompson:

"In the absence of Brother Thomas Patterson, Eastern Zone Supervisor, who is now ill and out of the office I am herewith replying to your letter of October 4, concerning your name appearing on the mail porters roster.

"I note from your letter that you feel that you are following the suggestion of Brother Patterson who, according to you, in a letter of June 4, 1953, stated: 'I would suggest to you, however, that if you have a chance at this time to establish seniority in the mail porters roster you ought to do so. It would give you the right under the unfinished proposed agreement that is under negotiation to operate either as a mail or train porter.'

"Now I also note that on a basis of this suggestion from Brother Patterson, you wrote the Trainmaster requesting that he add you name to the mail porters roster as of that date below the youngest man.

"I further note that you state that you have explained the situation to the men that are below the above-mentioned date on the roster and they expressed themselves as being willing to give you the right to be placed upon the roster as of that date."

[225] "If Management is willing to place you on the mail porters roster as of the date you suggest, May 21, 1953, and the porters are also agreeable to your being placed on the roster as of that date, the Brotherhood of Sleeping Car Porters will gladly agree to this arrangement.

No grand

"I am sending a copy of this letter to Brother C. J. Smith, General Chairman of the Atlantic Coast Line Train and Mail Porters Local, and I am suggesting to him to handle the matter to a conclusion.

"I hope that you may be able to get your place on the mail porters roster satisfactorily adjusted in order that you may be able to get work."

* * *

[226] Q. But when Patterson wrote you in 1953, at a time when although you had all of the work you could handle, on your regular job as train porter,—he told you "If you get a chance to get on that mail porters roster, you take it, because the time may come when you will need it," that was the truth, wasn't it?

A. That was the truth. That is what I tried to do too.

* * *

[illegible]
BSCP
Officials
Wages
[illegible]
Thompson
[illegible]
[illegible]
[illegible]
[illegible]

[232] Q. That is why they asked the brotherhood to give them their position, isn't it?

A. No, they asked—the railroad agreed—the railroad had nothing against me. The railroad agreed to put my name on the roster as of the date asked for in 1953, regardless of what the men behind me thought. They had nothing to do with that, because the brotherhood—they asked the brotherhood to state their position and the brotherhood declined. They wouldn't do anything about it.

[234] LETTER dated October 22, 1956, from Fred N. Thompson to B. F. McLaurin, G. F. O., marked in evidence as Defendant's Exhibit F:

* * *

"Conference was held in Superintendent's office this morning in connection with my case. Brother Smith, our general chairman, and Brother Green, local chairman, were present. The management agreed to place my name on mail porters roster as of May 21, 1953, if they can get a written statement from the organization stating their position.

"Your letter dated Oct. 6, 1956, stated that the matter seemed to have stopped on the part of the local was correct. Also in your letter dated Oct. 10, 1956, informing trainmaster Arnold that I be permitted to do extra work as mail porter until final adjustment of my case was made, has been declined. However, Brother McLaurin, M. Curry our oldest train porter, has been hired a few days ago as mail porter on the Columbia District.

"I am still unemployed as of September 21, 1956, and have not made a trip on our district since that time.

"I am definitely and sincerely protesting as I have formerly done my mail porter's seniority as of May 21, 1953, when I was placed on trains No. 50-51 as mail porter between Florence and Augusta five days a week.

"I have in my file a copy of the letter that [235] I wrote trainmaster J. A. Smoak to please add my name to mail porter's roster below the youngest man listed then. This matter was declined.

"Brother McLaurin, the mail porter's trips that I made prior to 1953, I am willing to disregard them. However, I feel justify in saying that I am being deprived of my seniority as mail porter when I have sufficient evidence to show in writing my work as mail porter and getting my name placed on the mail porters roster.

"In a personal conference with trainmaster Arnold he informed Brother Smith and I that in case the organization agree my name being placed on the roster below the youngest man now listed, there is a possibility of me being completely out of work due to the fact that they might have enough mail porters already hired. Therefore, if the organization withdraws and not consider me in my protesting in 1953, I will automatically be entirely out of work. Also my mail porter's seniority will not mean nothing to me, whereas, the other mail porters seniority began from the first date they ran as mail porters.

"I am confidentially that you and Mr. Randolph will put forth all efforts in settling this matter at an early date. If you all have explored the case and feel that I am right in my effort your kindness and eager-work will be greatly appreciated.

"I note in your letter also of Oct. 10, 1956, stating that if per chance the matter is not settled by the time you arrive in Florence Nov. 12, you will follow the matter to a conclusion.

[247] Q. Well, let's say you are first hired, you then run as extra porter?

A. Extra porter; yes, sir.

Q. And you get seniority as extra porter?

A. You get seniority as of the day of the first trip you make in respect to category.

Q. Well, you get your seniority as extra porter, I would say.

A. No, sir, not as extra. You get seniority as porter, not extra porter.

Q. As porter?

A. You get your seniority as porter.

* * *

[250]) Q. What do you mean by "force?"

A. Force?

Q. Yes?

A. I was in dire need for work and I was forced to sign that complaint, in other words, for the benefit of my family. That is why I had to sign it.

* * *

[252] Q. That is what you mean by the use of the term "force" in your complaint, that you were forced into waiving this. Is that what you meant?

A. Forced to sign the waiver.

Q. No more than that. It was put up to you because you wanted work and thought that was the way to get it and you signed it?

A. If I didn't get it that way, I wouldn't have had it at all.

* * *

S. L. COX, JR., Clerk, Atlantic Coast Line Railroad:

* * *

[261] Q. From '51 to '58?

A. Yes, sir; approximately.

Q. As Chief Clerk, you say it was your duty to see that these were prepared?

A. Yes, the overseeing of the preparation.

Q. When does a man's seniority start?

A. It has varied heretofore with different contracts. I believe that virtually all of them now start on the day that the man is first employed, when he completes his first so-called tour of duty, on his first day.

Q. In the job in which he is qualified?

A. That is correct, sir.

Q. Are you familiar with the Brotherhood of Sleeping Car Porters' contract, between itself and the Atlantic Coast Line?

A. I am not an expert on it, no, sir. Only in a general way.

Q. Do you know why Fred Thompson's name was never included on the mail porters roster of the Columbia and the Florence Districts?

A. No, sir; I do not.

Q. You do not?

A. No, sir.

[263] Q. Well, let's say this: If a man were on a seniority roster and we will say by inadvertence his name was left off and nothing was done about it for the period of a year, then the railroad wouldn't put him back on there ahead of anybody else who had been hired, would it?

A. That is—

Q. I am not trying to put you in an awkward position. If that is something outside of your field, that is all right.

A. It depends on what the employee himself has been doing. If he has been operating in the capacity in which he was hired during that length of time and it was simply an error of omission, the chances are that, yes, by conferring with the organization, yes, we would put him back in his place. Now, if he had gone off somewhere else and was doing something else, had made no protest, and had not kept us posted as to his whereabouts, that might be another matter. I couldn't say.

* * *

[265] Q. This agreement between the Coast Line Railroad and the Brotherhood of Sleeping Car Porters has been in effect since 1944 or '45, is that correct?

A. I believe that is correct.

Q. Now, I am going to be referring to portions of Plaintiffs Exhibit No. 2, the seniority rosters which are stapled together. I show you the January 1951 seniority roster. Whose name appears on the mail porters roster?

A. A. J. Pringle's name only.

Q. Is that the only one on the mail porter's roster?

A. Yes.

Q. We don't have '52. It is missing. I show you [266] the 1953 roster of the mail porters list, dated July 1, 1953. Would you read the second name?

A. The second name is J. G. Reed.

Q. And when does his seniority date from?

A. His mail porter's seniority—well his service from August 15, 1945, and his mail porters seniority December 18, 1947.

Q. So his name didn't appear on the 1951 or the 1950 rosters, did it, sir?

A. It did not. I don't see it.

Q. But it did appear on the 1953 roster and his seniority dates back 8 years on the mail porters roster, does it not?

A. That is obviously correct; yes, sir.

Q. We have nothing further.

THE COURT: Let me see if I understand one thing. I gather from what you say that the railroad itself, from its records—it is keeping its records naturally on its employees and is the one who determines a man's seniority as to his respective classification?

A. That is right, your Honor.

* * *

[269] MR. DUSENBURY: Your Honor, before he argues his motion, we would like to renew our motion to amend our pleadings to allege the dates 1953 and 1955.

THE COURT: Very good. All right.

MR. NETTLES: May it please the Court, the defendant at this time would move for the direction of a verdict in its favor upon the following grounds:

Now, at this time I am going to confine myself to our motion, and I think your Honor will want to take up the question of the amendment subsequent to that.

THE COURT: Yes.

* * *

[291] THE COURT: I just frankly, gentlemen, don't think you have got a case, not on fraud and deceit, and that is where you are. The thing has been poorly handled but I can't see that a fair interpretation of the testimony as [292] a whole shows me any substantial showing on the part of the plaintiff that he has made out a case for actionable fraud, and that is in effect where you stand, because the question, as I say, whether he was treated rightly or graded rightly, was not a question for this Court or that jury over there. It was a question for the Board under the Act.

I hate to rule on these things this way, because I realize that it is a case of terrific importance, but I just frankly don't see any evidence here that I could for one minute let a verdict hang on, if a jury were to return you a verdict here, not on fraud and deceit.

I am inclined to direct it.

Bring in the jury.

MR. DUSENBURY: Your Honor, could we urge one more alternate theory?

THE COURT: Yes, sir. Just a minute. Don't bring in the jury yet.

MR. DUSENBURY: We would like to urge one alternate theory to the effect that under the case law in this particular field concerning collective bargaining agreements, that the members of this craft are third party beneficiaries of such contract, of the collective bargaining agreement, and are entitled to this representation, and where there is a failure, we think they have a cause of action.

THE COURT: A failure in what respect?

[293] MR. DUSENBURY: A failure of the defendant to represent them under the collective bargaining agreement, under the terms of it, in a bona fide fashion, and we submit that it is a breach of contract there because these are the benficiaries and that Fred Thompson has a right to sue for simple breach of contract. And we submit the complaint in this action also states a cause of action for breach of contract and resulting damages.

THE COURT: I again would be forced to the conclusion that from the testimony you haven't shown me that there is any breach of contract.

MR. DUSENBURY: We think we have shown it. They didn't represent him.

THE COURT: Well, now of course that is a relative term. In order for you to pursue that theory, you would hav to show in some specific instance that they were required to do under the contract a specific thing that they did not do.

MR. DUSENBURY: W think we alleged those.

THE COURT: You alleged everything.

* * *

IN THE DISTRICT COURT OF THE UNITED STATES
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

BROTHERHOOD OF SLEEPING CAR PORTERS ON ITS OWN BEHALF AND AS REPRESENTATIVE OF PERSONS EMPLOYED AS PORTERS BY PULLMAN COMPANY Plaintiff	)	IN EQUITY
vs.	)	NO. 10084
PULLMAN COMPANY, a corporation, Defendant	)	

O R D E R

This matter coming on to be heard upon defendant's motion to dismiss the bill of complaint, the court having listened to oral argument and considered the briefs filed by counsel for the respective parties and now being fully advised:

IT IS ORDERED that defendant's motion to dismiss the bill of complaint be and the same is hereby overruled.

IT IS FURTHER ORDERED that the plaintiff may, if it so desires, have leave to amend its bill of complaint within twenty days.

JUDGE.

IN THE DISTRICT COURT OF THE UNITED STATES
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

BROTHERHOOD OF SLEEPING CAR PORTERS ON ITS OWN BEHALF AND AS REPRESENTATIVE OF PERSONS EMPLOYED AS PORTERS BY PULLMAN COMPANY. Plaintiff	
vs.	IN EQUITY NO. 10084
PULLMAN COMPANY, a corporation, Defendant	

MEMORANDUM.

This cause comes before the court on the motion of defendant to dismiss the bill of complaint.

PLAINTIFF's bill, which so far as it relates to the jurisdictional questions involved and as to a proper party plaintiff, sets out:

> "The Brotherhood of Sleeping Car Porters, a voluntary association, as the legally designated representative for all purposes of the Railway Labor Act of persons employed as porters by Pullman Company, defendant, respectfully brings this its bill of complaint on behalf of itself and persons so employed against said Pullman Company, a corporation duly organized under the laws of Illinois, having its principal office in the City of Chicago, Cook County, State of Illinois, and a carrier as defined by said Railway Labor Act, and thereupon complainant says:

First: Plaintiff Brotherhood is a voluntary association having approximately eight thousand members. Its membership consists of persons employed by defendant and by other carriers in the capacity of porters and maids. Such persons perform work defined as that of an employee in the orders of the Interstate Commerce Commission now in effect. Plaintiff's members who are employed by the defendant as porters constitute a majority of persons employed in that capacity by defendant. Plaintiff Brotherhood was organized and formed on or about August 1, 1925, for the purpose of improving the wages and working conditions of persons employed as sleeping car porters by common carriers of the United States engaged in interstate commerce and for the purpose of acting as representative of said persons in conference with such carriers as to wages and working conditions of said employes and for the purpose of entering into agreements with such carriers as to wages and working conditions. Said Brotherhood consists of a Grand Division and of local divisions. Local divisions of plaintiff organization exist in fifteen cities of the United States and are composed of persons employed by defendant and other common carriers as porters.

The Grand Division is composed of a president, a general secretary-treasurer and a general executive board consisting of seven vice-presidents and one delegate elected by and representing each local division. The officers of the Grand Division and the executive board were duly elected in September 1930 at a convention duly called and composed of delegates from said local divisions. Said association, by its constitution is empowered to represent the members of the association with regard to grievances and disputes as to wages and working conditions, and to represent them in conferences with defendant for the establishment of agreements regulating wages and working conditions. Furthermore, approximately five thousand persons employed by defendant as porters who are members of said association have signed and delivered to plaintiff written authorizations to represent them for all purposes under the Railway Labor Act including the settlement of grievances and negotiations of agreements governing wages and working conditions.

Plaintiff Brotherhood brings this suit on its own behalf and as authorized by Equity Rules Nos. 37 and 38 on behalf of and as representing for all purposes of the Railway Labor Act all its members employed by said Pullman Company and on behalf of all other persons so employed who may elect to associate themselves with plaintiff, as well as on behalf of all others who may be similarly situated whether members of said Brotherhood or not. The members of said Brotherhood and other persons in the employ of said defendant as porters number approximately eleven thousand but the exact number and identity of said persons are so subject to fluctuations and to changes that it would be practically impossible to make all of them parties by name and it is impracticable to bring all of them before the Court by name. All the persons in whose behalf this suit is brought are engaged in the same class of general employment for the same employer and form a general class of persons with a common and general interest in the subject matter of this suit. The Plaintiff Brotherhood fairly represents the rights and interest under the Railway Labor Act of those in whose behalf it brings and prosecutes this suit."

The first question to be determined is 0 (a) Does the bill seek relief under the Railway Labor Act; and (b) Does it involve a labor dispute?

Under the authority of Texas & New Orleans Railroad Company et al. v. Brotherhood of Railway & Steamship Clerks, et al. 281 U. S. 548, the answer to the first question must be in the affirmative.

As to the second question, it is only necessary to call attention to the act of Congress approved March 23, 1932, (Public No. 65 - 72nd Congress) (H. R. 5315) An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes.

While this act was passed subsequent to the time the bill of complaint was filed herein, the provisions in this Act are as binding upon the court as though it had been in full force and effect at the time plaintiff's bill was filed. The Act defines a labor dispute as follows:

> "Sec. 13. When used in this Act, and for the purpose of this Act ---
>
> (a) A case shall be held to involve or to grow out of a labor dispute when the case involves persons who are engaged in the same industry trade, craft, or occupation; or have direct or indirect interests therein; or who are the employees of the same employer; or who are members of the same or an

affiliated organization of employers or employees; whether such dispute is (1) between one or more employers or associations of employees; (2) between one or more employers or associations of employers and one or more employers or associations of employers; (3) between one or more employees or associations of employees and one or more employees or association of employees; or when the case involves any conflicting or competing interest in a "labor dispute" (as hereinafter defined) of 'persons participating or interested' therein (as hereinafter defined.)

(b) A person or association shall be held to be a person participating or interested in a labor dispute if relief is sought against him or it, and if he or it is engaged in the same industry, trade, craft or occupation in which said dispute occurs, or has a direct or indirect interest therein, or is a member, officer, or agent of any association composed in whole or in part of employers or employees engaged in such industry, trade, craft, or occupation.

(c) The term 'labor dispute' includes any controversy concerning terms or conditions of employment, or concerning the association of representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee."

From the foregoing the court includes that plaintiff's bill presents a case which involves a labor dispute within the provisions of both the Railway Labor Act and the Act approved March 23, 1932.

To rule upon the questions presented on this motion and urged upon the court as grounds for dismissal of plaintiff's bill, it is necessary for the court to consider both of these Acts of Congress.

That general relief may be had to enjoin the employer under the Railway Labor Act from interference, influence and coercion in the selection and designation of representatives under the Act, has already been determined in the case of Texas & New Orleans Railroad Company, et al. v. Brotherhood of Railway & Steamship Clerks, et al. 281 U. S. 548.

X The first question then presented on the motion is: Does the plaintiff Brotherhood Association, organized as set forth in plaintiff's bill and authorized to get as therein alleged constitute for the purpose of this bill a proper party plaintiff?

The only distinction to be drawn between the Texas & New Orleans Railroad Company, et al. v. Brotherhood of Railway & Steamship Clerks, et al. 281 U. S. 548, and the instant case is, that in the case above referred the plaintiff was a Brotherhood, its membership was composed of railway and steamship clerks, It was the plaintiff in the action, but also joined with the Brotherhood as party plaintiff was one Harper, a member of the union, designated as the representative of the Brotherhood. In the instant case the Brotherhood is composed of sleeping car maids and porters in the employ of the defendant, organized in the same manner and for the same purpose as the clerks were in the above case referred to, and filed its bill alone without in the first instance joining an individual as a party plaintiff. X

Defendant contends in support of its motion to dismiss plaintiff's bill that the Brotherhood of Sleeping Car Porters cannot maintain this action, (a) because it cannot act as a "designated representative" under the provisions of the Railway Labor Act, and (b) it cannot bring this action as a class action under Equity Rules 37 and 38.

The court has carefully considered the statements of counsel on oral argument as well as the briefs filed.

Section 2 of the Railway Labor Act, paragraph three, reads as follows:

> "Representatives, for the purpose of this Act, shall be designated by the respective parties in such manner as may be provided in their corporate organization or unincorporated association, or by other means of collective action, without interference, influence, or coercion exercised by either party over the self-organization or designation of representatives by the other."

From the reading of the foregoing provision, it will be observed that there are no limitations placed upon the manner in which "representatives shall be designated", nor any limitation upon who may be "designated." The Act throughout refers to both "corporate organization" and "unincorporated associations". It also provides for the selection of representatives "by other means of collective action."

From the language of this Act the court can reach no other conclusion than that the employees within the meaning of the Railway Labor Act could "designate" the plaintiff Brotherhood of Sleeping Car Porters as their representative.

The next question then presented is, can the plaintiff in this case as the "designated representative" of the employees maintain this action? By reference to the quoted portion of the plaintiff's bill it appears that in representing the employees it is acting within the scope of its organization.

X

In the case of Merchants' and Manufacturers' Traffic Ass'n. of Sacramento, et al. v. United States, et al. 231 Fed. Rep. 292, the court said:

> "A preliminary motion to dismiss the bill has been made by the United States on grounds that appear to be sufficiently stated in the objections that the petitioners do not bring the suit as common carriers or as shippers; that they have no such interest in the orders of the Interstate Commerce Commission sought to be annulled and enjoined as to enable them to maintain the suit; that it does not appear that they will sustain irreparable injury, or any injury, by reason of any orders of the Commission made subject of complaint; and that the petitioners have no standing in a court of equity to maintain the suit.
>
> Three of the petitioners are traffic associations formed for the purpose of representing jobbers and merchants located at Sacramento, Stockton, and San Jose in Traffic matters in which the parties represented are interested. The remaining petitioner, Santa Clara, is a municipal corporation representing the interests of the citizens of that municipality. All of the petitioners here authorized by section 13 of the Act to Regulate Commerce (Act Feb. 4, 1887, 24 Stat. 379) to apply to the Interstate Commerce Commission by petition for relief in certain matters; that is to say, they may become parties to certain proceedings before the Interstate Commerce Commission, thus recognizing their right to represent the interest of others before that body. And it is further provided in that section that:

> 'No complaint shall be at any time be dismissed because of the absence of direct damage to the complainant.'

It is further provided, in section 2 of the Act to Further Regulate Commerce with Foreign Nations and Among the States (Act Feb. 19, 1903, 32 Stat. pt. 1, p. 847):

> 'That in any proceeding for the enforcement of the provisions of the statutes relating to interstate commerce, whether such proceedings be instituted before the Interstate Commerce Commission or be begun originally in any Circuit Court of the United States, it shall be lawful to include as parties, in addition to the carrier, all persons interested in or affected by the rate, regulation, or practice under consideration, and inquiries, investigations, orders and decrees may be made with reference to and against such additional parties in the same manner, to the same extent, and subject to the same provisions as are or shall be authorized by law with respect to carriers.'

The purpose of these statutes is plainly to meet a situation and bring in all parties interested in the controversy, to the end that the entire question involved may be settled and determined in the one proceeding. Such being the purpose, we see no objection to classes of persons similarly situated being represented by an association or other organization and coming into the controversy under the common name. This, we think, brings this case within the well known rule that bills may be filed in the name of an unincorporated association and by parties on behalf of others similarly situated. In Foster's Federal Practice (5th Ed. a 114, the rule is stated as follows:

> 'Class suits. -- When a number of persons have a common interest in a thing which is the subject of litigation, and in some instances when a number of persons have a common interest in a question which is before

> the court for decision, one or more may sue or be sued in behalf of the rest. Judge Story divides the first of these divisions into two: (1) When the question is one of a common and general interest, and one or more sue or defend for the benefit of the whole; and (2) when the parties form a voluntary association for public or private purposes, and those who sue or defend may fairly be presumed to represent the rights and interests of the whole. But there seems to be no reason for treating the two classes separately. They are called Class suits, creditors' suits, or stockholders' suits, as the case may be.'

Moreover, the Equity rules seem to contemplate such a suit for the common benefit of all where the parties are numerous and have a common or general interest. Equity Rule No. 37 (198 Fed. xxviii, 115 C. C. A. xxviii) provides:

> 'All persons having an interest in the subject of the action and in obtaining the relief demanded may join as plaintiffs and persons having a united interest must be joined on the same side as plaintiffs or defendants'.

Equity Rule No. 38 (198 Fed. 115 C. C. A. xxix) provides that:

> 'When the question is one of common or general interest to many persons constituting a class so numerous as to make it impracticable to bring them all before the court, one or more may sue or defend for the whole.'

We think under these rules this action may be maintained by the petitioners. The motion to dismiss is therefore denied."

The holding in this case has a direct bearing upon the question involved. It is true that the statute under which the action was brought provides that associations organized as plaintiffs were, says "It shall be lawful to include as parties in addition to the carrier, all persons interested in or affected by the rate, regulation, or practice under consideration." No express authority was conferred, however, upon such associations to bring actions as plaintiff. Further, the court held that they were competent to bring such actions as "class suits".

Under the Railway Labor Act there is no express statutory authority to bring any action, and the authority granted is by implication.

To hold that the plaintiff Brotherhood in this case could bring this action as the Texas-Clerks case held, supra, if it included some one person designated as a representative, the relief prayed for both in that case and the one before the court being identical, would be to have regard for the shadow and not the substance.

The court has therefore reached the conclusion that the plaintiff in this cause is a proper plaintiff and under the provisions of the Railway Labor Act.

Having reached this conclusion it is not necessary to discuss the rights of those members who filed intervening petitions in this cause.

The Act of March 23, 1932 contains the following provision:

> "Sec. 8. No restraining order or injunctive relief shall be granted by any complainant who has failed to comply with any obligation imposed by law which is involved in the labor dispute in question, or who has failed to make every reasonable effort to settle such dispute either by negotiation or with the aid of any available governmental machinery or mediation or voluntary arbitration."

This section has reference to the Railway Labor Act, under which this is brought. And from this section the court must conclude that it applies to plaintiff's bill of complaint as though this provision had been in full force and effect at the time the bill was filed. (Seee15 Corpus Juris 825, Par. 140, and cases cited under Note 90, including Hallowell v. Commons 239 U. S. 506; Hendrix V. United States, 219 U. S. 79; Baltimore etc. R. Co. V. Grant, 98 U. S. 398, etc.) Under this provision before a court can issue an injunction it must appear affirmatively that this section has been complied with.

Plaintiff's bill recites that in September 1930 it held a convention pursuant to its constitution and by-laws, at which a resolution was adopted instructing its officers pursuant to the Railway Labor Act to secure a conference with the defendant for the purpose of negotiating an agreement for the settlement of grievances arising out of the interpretation of existing working rules and wage rates, and the agreement for the revision of said rules, and further instructing the officers of plaintiff organization to bring a suit in equity to restrain defendant from interfering with the self designation of representatives of porters in its employment and with their right of self-organization. That on August 8, 1930, it had addressed a letter to the defendant at the office of defendant in Chicago, requesting a conference under the Railway Labor Act, and that the defendant failed to reply. It may be doubtful that evidence that could be offered under this allegation would be sufficient to make the affirmative showing required by Section 8 above quoted. The court however, cannot determine this as a question of law under the allegations, for it is conceivable that plaintiff might introduce many facts and circumstances which would support its position. Plaintiff, in the brief filed by counsel, has suggested that it has other evidence, and plaintiff may, if it so desires, have leave to amend its bill of complaint within twenty days from this date.

Counsel for defendant has also argued the question in his brief of indispensable parties. This may present a serious question upon the trial of the case, but one which the court cannot rule upon in advance.

For reasons above indicated the clerk of the court will enter an order overruling defendant's motion to dismiss the bill of complaint.

JUDGE.

96
Clinton
8th Cir.
S.D. of Iowa
Div. E.

SUBMISSION OF CANADIAN PACIFIC RAILWAY COMPANY.

INTRODUCTION.

1. This is a reference to an arbitrator of a dispute between the Canadian Pacific Railway Company and the Brotherhood of Sleeping Car Porters, who represent approximately 400 sleeping and parlour car porters on Canadian Pacific system.

2. In this submission Canadian Pacific Railway Company will be referred to as the Company and the Brotherhood of Sleeping Car Porters as the Porters.

3. The issue giving rise to this dispute is the claim of the Brotherhood that the rates of pay presently in effect for the Porters are in violation of the Memorandum of Agreement and Letter of Agreement signed between the parties on May 30th, 1966, and the Master Agreement of March 14th, 1967.

4. It is the submission of the Company that the rates of pay presently in effect for Porters are fully in accord with the agreements reached on May 30th, 1966 and the Master Agreement of March 14th, 1967.

5. In order that there may be a proper understanding of this issue, it is advisable to set out in some detail the history leading up to the present situation and which prompted the agreements referred to of May 30th, 1966, which are the key factors in this dispute.

HISTORY OF DISPUTE.

6. In Canadian Pacific collective agreements covering all non-operating employees, as well as in running trades agreements governing engineers, firemen and yardmen working in yard service, we find hours of service referred to on the daily basis and the weekly basis and in some cases also on the monthly basis. In order to fully understand the dispute presently before us, and its history, the relationship between weekly hours and monthly hours should be clear. This relationship is and always has been as follows:

Weekly Hours	Monthly Hours
7-day week - 56 hours	240 hours
6-day week - 48 hours	208 hours
5-day week - 40 hours	174 hours or 169 1/3 hours depending upon which way it is calculated.

7. Prior to June 1st, 1951, the vast majority of non-operating employees worked a 6-day, 48-hour week, which, in terms of monthly hours represented 208 hours. At that time Porters worked on the basis of a seven-day, 56-hour week, which in terms of monthly hours, represented 240 hours.

8. Following completion of negotiations between the Railways and the Associated Non-Operating Groups in the year 1950, a master agreement was signed on January 30th, 1951, which provided that effective June 1st, 1951, the 48-hour week - 208-hour month -

which had up until that time been effective for all non-operating groups, (excluding Porters), would be reduced to the 40-hour week - 169 1/3-hour month with no loss in take-home pay.

9. Subsequently, on May 2nd, 1951, a similar reduction in hours with full retention of existing earnings was agreed to with the Porters. By this agreement the monthly hours of Porters were reduced effective June 1st, 1951, from the former 240-hour month (56-hour week) to the 208-hour month (48-hour week) with the same take-home pay.

10. Effective June 1st, 1951, therefore, the Porters along with all other non-operating groups, received a downward adjustment in hours without loss of take-home pay, most non-operating groups from the 6-day week to the 5-day week and the Porters from the equivalent of a 7-day week to the 6-day week. All groups, therefore, received a reduction in their work week of one day without loss of take-home pay.

11. These provisions were still in effect on July 1st, 1965, when the Canada Labour (Standards) Code became effective.

12. Part I - Hours of Work - of the Canada Labour (Standards) Code provided for the introduction of the 40-hour, 5-day week for all employees under federal jurisdiction, but provision was also contained in the Code for an employer or the employees to apply to the Minister for a deferment of the application of these hours of service provisions. Canadian Pacific, along with other railways

involved, requested the Minister for a deferment of the application of Part I in respect of Porters which had the effect of deferring the application of the Code. While the Code provided for the establishment of the 40-hour, 5-day week, where such did not exist, it did not provide for retention of take-home pay.

13. The non-operating groups served notice upon the Railways on November 15th, 1965, for substantial increases in wage rates and other benefits and they requested, as had been the traditional practice in the past, that their demands be negotiated on a concerted basis with all non-operating unions, including the Porters, who had served the same demands as all other non-operating groups for wage increases and other changes.

14. While negotiations were in progress on the wage and other contract demands of the Associated Non-Operating Unions, including Porters, the representatives of the Porters contacted the Department of Labour in Ottawa requesting that the Minister decline the deferment application that had been made by Canadian Pacific in respect of Porters in order that the Company would be required under law to implement the 40-hour week for its Porters.

15. As a consequence of this demand by the Porters, representatives of Canadian Pacific and the Porters were requested to meet in Ottawa on January 20th, 1966, with the Deputy Minister of Labour, Dr. George Haythorne, in order to discuss the Company's deferment application and the position being taken by the Porters that it should be declined.

16. At this meeting the Company pointed out that there was no requirement in the Canada Labour (Standards) Code for the Company, when reducing hours, to maintain take-home pay and that any arbitrary action in this respect could force Canadian Pacific into a position of reducing the rates being paid Porters proportionately to the reduction in hours that would be required by law if the deferment were terminated.

17. In the light of the over-all situation at that time, namely that the Porters had served notice for substantial wage increases and were negotiating in concert with other non-operating groups, and at the same time were demanding that the Minister of Labour reject the Company's deferment application in respect of hours of service, Canadian Pacific served a notice on the representatives of the Sleeping Car Porters on January 28th, 1966, of its desire to amend the rules in the collective agreement governing hours of service so that they would conform with the requirements of Part I - Hours of Work, Canada Labour (Standards) Code. The Porters were advised that the Company desired to meet and negotiate all of the demands contained in the notice served on the Company by the Porters on November 15th, 1965, along with the demands of the Company. The purpose in this action by the Company was to ensure that demands for reduction in hours of work on the one hand, and demands for wage increases and other fringe benefits on the other hand, would be dealt with simultaneously in an overall package, separate and apart from the negotiations with other non-operating groups in which the question of a reduction in hours of work was not an issue.

18. Subsequently the Company submitted to the representative of the Porters a proposed revised agreement which, among other things, would implement the 40-hour week provisions of the Canada Labour (Standards) Code.

19. The Industrial Relations and Disputes Investigation Act does not require any union or any company to carry out negotiations in concert with other groups. Furthermore, it had always been agreed and understood between the railways and the Associated Non-Operating Groups that negotiations in concert could only be carried out so long as the demands affecting all groups and all railways were identical. The action taken by the Company, which would require the Porters to negotiate on all matters in dispute between the parties, separate and apart from the balance of the non-operating groups who were negotiating in concert on common demands was, therefore, consistent with the law and past practice.

20. The representatives of the Porters were strongly opposed to being separated from the balance of the non-operating groups who were carrying out their negotiations in concert but the Company maintained its position that groups negotiating in concert could only do so as long as the demands on both sides of the table were identical for all groups and that as this was not the case with the Porters they would have to negotiate with the Company independently in respect of all matters in dispute in respect of that group.

21. Around this time, two other important developments had taken place. Firstly, negotiations between the railways and the non-operating groups had failed to culminate in agreement and the non-operating

unions negotiating in concert submitted a request to the Minister of Labour on January 25th, 1966, for the establishment of a Board of Conciliation under the Industrial Relations and Dispute Investigation Act. Secondly, an agreement was reached early in March 1966 between Canadian National Railways and its Dining and Sleeping Car employees, represented by the Canadian Brotherhood of Railway, Transport & General Workers, providing for a gradual reduction in hours from the 208-hour month (6-day week) to the 173 1/3 hour month (5-day week) with a modified form of retention of take-home pay for such employees.

22. Canadian Pacific was not, however, prepared to adopt an agreement in respect of its Porters on the basis of that signed by Canadian National with similar groups.

23. Although the Associated Non-Operating Groups, when applying to the Minister of Labour for the establishment of a Board of Conciliation on January 25th, 1966, included as one of the parties to the group, the Brotherhood of Sleeping Car Porters, it was pointed out to the Minister by the Company that under the circumstances existing, Canadian Pacific was not prepared to have the Brotherhood of Sleeping Car Porters included with the balance of the non-operating groups and that under the Industrial Relations and Disputes Investigation Act, it was not required to do so.

24. While the Minister agreed with the position taken by the Company, Mr. Bernard Wilson, then Director of Industrial Relations, Department of Labour, called Mr. K. Campbell, then Assistant

Vice-President, Personnel, Canadian Pacific Railway Company, enquiring as to whether there could not be some arrangement made which, for the sake of convenience and expediency, would enable Canadian Pacific to deal with the Porters before the Board of Conciliation in concert with the other non-operating unions.

25. As a result of this, Mr. Campbell addressed a letter under date of March 4th, 1966, to Mr. R. C. Smith, Chairman, Negotiating Committee, Associated Non-Operating Unions, stating that providing the Brotherhood of Sleeping Car Porters was prepared to accept the following condition, then Canadian Pacific would be agreeable to the Porters being regarded as in concert with all the rest of the non-operating groups:

> "If, as a result of current negotiations between the Non-Operating Unions and the Railways, a wage increase is agreed upon, no part of any such increase shall apply to Sleeping Car Porters, but negotiations with the Porters shall continue for the purpose of making an agreement which will contain the conditions under which the hours of work of Porters shall be made to conform with the Canada Labour (Standards) Code and the manner and extent to which any increase in wages shall be applied to the new hours so negotiated."

A copy of this communication was forwarded to Mr. Bernard Wilson at the time.

26. This communication was not acknowledged either by Mr. Smith, to whom it was addressed, or the representative of the Sleeping Car Porters.

27. On March 7th, 1966, advice was received from Mr. Bernard Wilson, Director of Industrial Relations, Department of Labour, that a Board of Conciliation had been established by the Minister to deal with the matters in dispute between the Associated Non-Operating Unions and the Railways. The terms of reference to this Board did not include the group of Canadian Pacific Sleeping Car Porters.

28. At this point, therefore, the Minister had established a Board of Conciliation to deal with all matters in dispute between the railways and the associated non-operating groups who were negotiating in concert, but the status of the Porters was that they were in the position of negotiating independently with Canadian Pacific in respect of their demands and those of the Company, including wages, hours of service and all other matters.

29. The Porters, however, continued to find this situation unacceptable and, with the assistance of the Chairman of the Associated Non-Operating Groups, continued their efforts through the Department of Labour to obtain an amendment to the terms of reference of the Board of Conciliation that had been set up by the Minister so as to have such terms of reference include Canadian Pacific Porters.

30. As a consequence of this, Mr. K. Campbell, Assistant Vice-President, Personnel, Canadian Pacific Railway Company, received a call at the beginning of April, 1966, from Mr. Bernard Wilson, to the effect that Mr. R. C. Smith, Chairman, Associated Non-Operating

Unions, and Mr. A. R. Blanchette, International Field Representative, Brotherhood of Sleeping Car Porters, had been in to see him at Ottawa. Mr. Wilson stated to Mr. Campbell that Mr. Smith had a proposal which he, Mr. Bernard Wilson, thought was very realistic in the circumstances and that it was his view that representatives of Canadian Pacific should meet with these gentlemen to hear and assess Mr. Smith's proposal. Mr. Campbell advised Mr. Wilson that Canadian Pacific would be pleased to meet and listen to any realistic solution that the unions had to offer by which the porters group could be reinstated into the Associated Non-Operating Group.

31. A meeting was then arranged and held on April 5th, 1966, with Messrs. Smith and Blanchette, attended by Mr. Frank Hall. At the outset the representative of the Porters presented a proposal providing for a reduction in hours from the 208-hour month to 174 hours with full retention of take-home pay. Mr. Blanchette was informed that this proposal was outrightly rejected and it was suggested to the union representatives that this could hardly have been the "realistic proposal" that had earlier been referred to by Mr. Bernard Wilson in his telephone call to Mr. Campbell. Mr. R. C. Smith then advanced the proposal that he had earlier made to Mr. Bernard Wilson which was that the hours of the Porters should be reduced in stages down to 174 hours per month but that present Porters would continue to receive not less for a full month's work than their existing monthly rates; that a new scale of rates would be established proportionately lower than the existing rates to reflect the reduced hours and that any

general wage increases to come would be applied to the lower scale of rates and that such lower scale of rates plus general increases would not come into effect until they overtook the present rates being paid the Porters. The net effect of this proposal was that Porters presently employed would have their hours of service reduced from 208 hours to 174 hours per month without any reduction in their existing rates of pay but that they would not receive the benefit of any wage increases to come until such time as such increases when added to the new scale of rates exceeded the rates then in effect.

32. Canadian Pacific had, up to this time, been of the view that as all Porters had received a comparable reduction in hours of service without loss of take-home pay effective June 1st, 1951, (Paragraphs 9 and 10 of this Submission) as had been granted to other non-operating groups, they could not rightfully expect a second reduction in hours with retention of existing pay. However, the union representatives were advised that the Company would accept Mr. Smith's proposed compromise and undertook to draft a suitable agreement accordingly.

33. This document was prepared and forwarded to Mr. R. C. Smith, Chairman, Associated Non-Operating Unions, on April 20th, 1966. A copy of this document is attached to this submission as Appendix "A". It will be observed this proposed agreement provided for a gradual reduction in monthly hours from the then existing 208 hours to 173 1/3 hours (equivalent to the 40-hour, 5-day week); also that it provided for a proportionate reduction in the monthly

rate to reflect the reduced hours except that Clause 5 of the agreement provided that no Porter holding seniority as such prior to January 1st, 1966, would be paid less than the rate of pay in effect on December 1st, 1965. This, therefore, was as indicated, consistent with the proposal advanced by the union at the meeting on April 5th to the effect that the hours of service be reduced, that a proportionately lower wage scale be adopted but that porters then in the service would not have their monthly rates reduced but would continue on incumbency rates until entitled to a higher rate by reason of the lower established rates overtaking the incumbency rates (December 31st, 1965 rates) at a later date due to general increases being applied to the lower scale. Nothing further was heard until a letter was received from Mr. Smith on May 4th, 1966, again attaching a document prepared by the Sleeping Car Porters' representative, Mr. A. Blanchette, once more requesting that the hours be reduced to the 40-hour week basis with complete retention of take-home pay and without any reference to the proposition made earlier by Mr. Smith in the presence of Mr. Blanchette in respect of the application of general increases. A copy of this document is attached to this submission and marked Appendix "B".

34. As stated, the effect of the agreement submitted by the Porters on May 4th would have been to reduce the hours of service of Porters, with unrestricted retention of existing rates of pay; which rates would then be increased by any general increases resulting from the wage demands then being negotiated. This proposed agreement, had it been accepted, would have granted to the Porters precisely what

the Brotherhood is claiming before this arbitration.

35. The fact is, however, that Mr. Smith was advised by telephone that if this were Mr. Blanchette's final position no progress whatever could be made and in the course of that conversation Mr. Smith acknowledged that the proposed agreement sent to him on April 20th met entirely the proposal that he had put forward at the meeting with the Company's officers on April 5th and that the suggested agreement attached to his letter of May 4th was merely a restoration of the position that had been formerly taken by the representative of the Porters and which had been previously rejected by the Company.

36. Following this, the union representatives held further meetings with Dr. George Haythorne, Deputy Minister of Labour, and in the latter part of May 1966, the Company received a request to again meet with the union representatives in a further attempt to reach an agreement that would permit Canadian Pacific porters to be included in the Board of Conciliation proceedings involving the other non-operating groups which were to commence on May 31st, 1966.

37. Several meetings were held between the Company's officers and Messrs. R. C. Smith and A. R. Blanchette during which Mr. Blanchette retracted from his former demand for reduction in hours of service with unrestricted retention of take-home pay to the extent of requesti the same settlement as had been previously made on Canadian National

which involved a modified form of retention of take-home pay. (See Paragraph 21 of this Submission). This proposal was also rejected by the Company.

38. In the course of these same discussions agreement was, however, finally reached on May 30th, 1966, between the parties, which implemented the proposal that had been previously advanced by Mr. R. C. Smith. (See Paragraph 31 of this Submission). This settlement took the form of a Memorandum of Agreement and a Letter of Agreement, both of which were signed on May 30th, 1966. These agreements are attached to this submission and are marked Appendix "C" and Appendix "D" respectively. A study of these two agreements will show that they provide for the identical settlement in respect of application of future wage increases to that contained in the proposed agreement forwarded to Mr. R. C. Smith on April 20th, 1966. (Appendix "A") It had been Mr. Blanchette's request that the provisions for reduced hours of service on the one hand, and the settlement in respect of the application of future wage increases on the other hand, both of which were provided for in Appendix "A", be covered in two separate documents rather than one.

39. It will be seen that the Memorandum of Agreement (Appendix "C") provided for a reduction from the 208-hour month to 182 hours, effective October 1st, 1966, and to 173 1/3 hours effective April 1st, 1967, which latter monthly hours represent the equivalent of the 40-hour week. It will also be observed that the agreement spells out the rates of pay to be applicable throughout this period. It will further be noted that the monthly rate for 208 hours is shown up to

September 30th, 1966, while the rates shown effective October 1st, 1966, and April 1st, 1967, are the hourly rates only. While one might assume from this that the monthly rate as such ceased to exist after September 30th,1966, this is not the case. The monthly rate was left out under the wage-rate columns for October 1st, 1966 and April 1st, 1967, at the special request of Mr. Blanchette, the Sleeping Car Porters' representative. It will be seen, however, from the headings on the October 1st, 1966 and April 1st, 1967 columns that the monthly rate, although not quoted, is provided for by the term "(182 hours per month)" and "(173 1/3 hours per month)", which when multiplied by the appropriate hourly rates shown, reflects the same monthly rate as is contained in the left hand column of the agreement. In effect, the Memorandum of Agreement retained the existing monthly rates while the hours were reduced to 182 and 173 1/3 respectively and the higher hourly rate necessary to reflect the full monthly rate on the basis of the reduced hours is shown accordingly.

40. It will also be noted that this agreement contains a provision that the hourly and monthly rates shown are not subject to any upward adjustments and shall remain in effect unless and until they are overtaken by the basic schedule monthly and hourly rates contained in the Letter of Agreement which was also signed on May 30th, 1966. (Appendix "D"). This Memorandum of Agreement, therefore, carries out the first part of the proposal advanced to the Company on April 5th by Mr. R. C. Smith, namely, that the reduced hours be put into effect gradually without reducing the present pay of Sleeping Car Porters and that the present rates would not be subject to any subsequent general wage increases.

41. It will be noted from the Letter of Agreement, also dated May 30th, 1966, (Appendix "D"), that a scale of rates is shown which is proportionately lower than the existing rates as to reflect the reduced hours. Again the hourly rates only are shown for October 1st, 1966 and April 1st, 1967, not because the monthly rates will be eliminated but rather because for reasons of his own, Mr. Blanchette did not wish the monthly rates to be quoted. It will be seen, however, that in this document, as in the Memorandum of Agreement (Appendix "C"), the monthly rates are again provided for in the headings and are effective October 1st, 1966 by multiplying the hourly rate shown by 182 hours and for April 1st, 1967, the monthly rate is the hourly rate shown multiplied by 173 1/3 hours. It will also be found that it is confirmed again in this document that it is to this set of rates only that general increases will apply.

42. Pursuant to the Memorandum of Agreement of May 30th, 1966 (Appendix "C"), the monthly hours of Sleeping Car Porters were reduced from 208 hours to 182 hours, effective October 1, 1966, and from 182 hours to 173 1/3 hours, effective April 1, 1967. The 40-hour week for Porters became effective, therefore, on April 1, 1967.

43. Consequent upon these reductions in monthly hours of service, no reductions were made in the existing rates paid to Porters. This was in conformity with the Memorandum of Agreement of May 30th, 1966, which provided that Porters would not have their wages as at December 31, 1965, reduced as a result of the

reduction in hours that was taking place.

44. The signing of the Memorandum of Agreement (Appendix "C") and the Letter of Agreement (Appendix "D") on May 30th, 1966, constituted a settlement between the parties establishing the conditions under which the hours of work of Porters would be reduced to comply with the Canada Labour (Standards) Code and the manner and extent to which any increase in wages would be applied.

45. This met the requirement necessary insofar as the Company was concerned to permit the Sleeping Car Porters group to re-enter concerted negotiations with the balance of the non-operating groups. (See Paragraph 25 of this Submission)

46. The Minister of Labour was immediately advised of the settlement and the terms of reference which had established a Board of Conciliation for the non-operating groups, excluding the Porters, (see Paragraph 27) were amended the same day by the Minister to include Canadian Pacific Porters in the associated non-operating groups appearing before the Board, which was to commence hearings the following day, May 31st, 1966.

47. This Board of Conciliation presented its recommendations to the Minister of Labour in July 1966, which recommendations included, amongst other things, the following wage increases:

Effective January 1st, 1966	4%
Effective July 1st, 1966	4%
Effective January 1st, 1967	4%
Effective July 1st, 1967	6%
(Total 18%)	18%

all of which increases were to be calculated and applied on the basic rates of pay in effect as at December 31st, 1965. The agreement was to run for two years from January 1st, 1966, to December 31st, 1967.

48. These recommendations were rejected by both the non-operating unions and by the railways.

49. The non-operating unions then called a strike effective at noon, August 26th, 1966, which resulted in a complete cessation of railway operations.

50. This strike was terminated by the Maintenance of Railway Operation Act passed by Parliament on September 1st, 1966. This Act imposed on the parties the wage increases that had been recommended by the Board of Conciliation and provided for subsequent mediation of the overall dispute with a final settlement to be imposed by final and binding arbitration in the event mediation failed.

51. Mr. H. Carl Goldenberg was appointed mediator and his appointment, which had earlier been extended by the Government, was to cease on December 17th, 1966. On that date, the parties were able to reach and sign a Memorandum of Settlement which was subject to

ratification by the membership. This settlement provided for a three-year agreement from January 1, 1966 to December 31, 1968, with the following wage increases:

Effective January 1, 1966	4%
Effective July 1, 1966	4%
Effective January 1, 1967	7%
Effective July 1, 1967	3%
Effective January 1, 1968	6%

(all increases to be applied to the basic rates in effect as at December 31, 1965.)

A copy of this Memorandum of Settlement is attached to this submission as Appendix "E".

52. It will be noted that this settlement changed the wage increases previously awarded by the Maintenance of Railway Operation Act, 1966, as follows:

	Memorandum of Settlement December 17, 1966	Maintenance of Railway Operation Act, 1966
Effective January 1, 1967	7%	4%
Effective July 1, 1967	3%	6%

There was no change in the terminal amount of the increases. The December 17th Settlement also provided a further increase of 6% January 1, 1968, in recognition of the three-year agreement.

53. An extremely significant development took place, however, on the

morning of December 17th, 1966, prior to commencement of negotiations scheduled for 10:00 a.m. that day with the Associated Non-Operating groups. In this connection, we must again bear in mind that it was on this date that mediation proceedings had to either succeed or fail.

54. At approximately 9:00 a.m. on the morning of December 17, 1966, Mr. K. Campbell, Vice-President Rail, Staff, Canadian Pacific Railway, and who had been acting as Chief Spokesman for all the railways throughout the mediation proceedings with the associated non-operating unions was requested by Mr. R. C. Smith, Chairman of the negotiating committee for the non-operating unions to meet with him privately. This was arranged and Mr. Campbell was informed by Mr. Smith that it appeared a settlement had been reached between the railways and the non-operating unions which could be signed that day but that a problem existed in respect of the Sleeping Car Porters group as a consequence of the Memorandum of Agreement and letter of agreement that had been signed on May 30, 1966 (Appendices "C" and "D").

55. The problem as explained to Mr. Campbell was that the Porters' representative was concerned over the fact that while the overall increases of 24% contemplated in the settlement were satisfactory, by reason of the May 30th agreements these increases would not apply to applicable Porters' rates subsequent to October 1st, 1966, the effective date of the first reduction in hours of service until January 1, 1968, when the wage scale included in the letter of agreement, augmented by the wage increases provided for in the

proposed settlement, would surpass the rates established by the Memorandum of Agreement of May 30th.

56. Mr. Smith implied that unless something could be done to modify the May 30th, 1966, agreements with the Porters, whereby the wage increases would apply to the rates then being paid, the settlement with the associated non-operating groups which it was hoped to reach that day would be jeopardized. Mr. Campbell informed Mr. Smith that this was out of the question and that if this were to stand in the way of a settlement being reached with the associated non-operating groups then the entire matter would have to take its course. This would mean failure to reach a mediated agreement and the entire dispute with the associated non-operating unions would, in accordance with the Maintenance of Railway Operation Act, 1966, be referred to arbitration for final and binding settlement.

57. In the course of his discussion with Mr. Smith, Mr. Campbell pointed out that Canadian Pacific dining car employees had been offered and rejected the identical settlement that had been reached with the Porters on May 30th; that as a result, the Company was presently preparing to go before a Federal Board of Conciliation in respect of the dispute with these employees and that the position of the Company before the Dining Car Employees Board would be identical to that taken with the Porters. It was, therefore, out of the question at that time to entertain amendments to the Porters' agreements that had been signed on May 30th, 1966.

58. Mr. Smith informed Mr. Campbell that he appreciated the Company's position and requested that the situation be put before the Porters' representative, Mr. A. R. Blanchette, privately before the negotiations on the overall settlement reconvened with the Associated non-operating groups at 10:00 A.M. that morning.

59. This was done. Mr. Campbell and Mr. J. C. Anderson, Assistant to Vice-President, Personnel, met privately with Mr. Blanchette, to whom the entire situation was explained. Mr. Blanchette pleaded for amendments to the May 30th, 1966 agreements to the extent of allowing the settlement that had previously been made between Canadian National Railways and its dining car staffs and porters to apply to Canadian Pacific Porters. As stated in Paragraph 21 of this submission, the Canadian National settlement effected gradual reduction in hours of service with a modified form of retention of take-home pay.

60. Mr. Blanchette was, therefore, pleading on December 17th, 1966, for amendments to the May 30th, 1966 agreements, to grant Canadian Pacific Porters the Canadian National modified retention of take-home pay; now he appears before this arbitration proceeding claiming that the May 30th, 1966 agreements grant him full retention of take-home pay with application of all increases granted as a result of the settlement reached with all non-operating groups. In other words, according to his present position, Mr. Blanchette was pleading on December 17th, 1966, for considerably less than he now contends he already had.

61. Mr. Blanchette was, however, advised that a settlement of the wage and fringe benefit issue between the railways and the associated non-operating groups could not be used as a means of one specific group, namely the Porters, to obtain amendments to Collective Agreement rules that had no bearing or connection with the common issues upon which the parties were striving for a mediated settlement. Mr. Blanchette was, therefore, informed on the morning of December 17, 1966, that Canadian Pacific outrightly rejected his request for amendments to the May 30, 1966 agreements and that if this was to jeopardize a settlement on the other common matters with all the other non-operating groups then this would have to be so. This would have meant failure in the mediation procedures which would have sent the wage and other common issues to final and binding arbitration under the provisions of the Maintenance of Railway Operation Act, 1966. Mr. Blanchette was further reminded, that even if this occurred the provisions of the May 30, 1966 agreements signed between Canadian Pacific and its Porters could not be a matter before any arbitration procedure that might take place under the Act.

62. Having made their position in this respect very clear to Mr. Blanchette on the morning of December 17, 1966, the Company's officers did indicate to Mr. Blanchette that if the dispute in respect of hours of service then pending between Canadian Pacific and its dining car employees, and which as stated earlier was to go before a Federal Board of Conciliation, was eventually settled in a different manner to the settlement made with the Porters in the May 30th, 1966 agreements, the Company would be prepared to enter into discussions

later on with the Porters to ascertain whether or not inequities existed as a result of different agreements being signed and, if such were found, to correct them.

63. Mr. Blanchette was not satisfied with this but he did withdraw his protest and a settlement on wages and other common issues was reached between the railways and the associated non-operating groups late in the evening of December 17th, 1966. (Appendix "E")

64. This settlement was subsequently ratified by the employees and was finalized in a Master Agreement dated March 14, 1967, a copy of which is submitted as Appendix "F".

65. In the meantime, the dispute between Canadian Pacific and its dining car employees was progressed to the Board of Conciliation and, while the Company maintained that a settlement on the same basis as that provided for in the May 30, 1966 agreements with Canadian Pacific Porters, should be recommended, this Board saw otherwise and as a result an agreement was later signed with the dining car employees on the same basis as Canadian National had earlier reached agreement with its Porters and dining car staffs - i.e. the agreement provided for a gradual reduction in monthly hours to 173 1/3 hours per month (40-hour week equivalent) with a modified form of retention of take-home pay.

66. As soon as possible following the signing of the Master Agreement with the Associated Non-Operating groups on March 14, 1967, the

Company advised the Chairman of the Non-Operating groups that it was prepared, in accordance with the undertaking given the Porters' representative on December 17, 1966, to enter into discussions to determine what, if any, inequities existed in the wage rates and conditions of Porters and what amendments could be made in the May 30, 1966 agreements to eliminate such inequities if any were found to exist. Mr. Smith was, however, informed that as the Company understood the situation, the Porters' representative was claiming that the wage rates then being paid to Porters were in violation of the May 30, 1966 agreements and the Master Agreement of March 14, 1967, and if that remained the case meaningful discussions could not be held in respect of amendments to the agreements.

67. A meeting was held, however, with the representative of the Porters, on June 16, 196~~6~~7, attended by Mr. R. C. Smith and Mr. Frank Hall, of the associated non-operating unions, at which meeting the situation was clearly explained to Mr. Blanchette. He was informed that if it was his position that his existing agreements were being violated by the Company, that if in fact he contended his present agreements gave the Porters more than the agreements signed with the Canadian National porters and dining car staffs and later with Canadian Pacific dining car employees, which conditions Mr. Blanchette had attempted to secure on numerous previous occasions, and, Mr. Arbitrator, this is precisely what Mr. Blanchette is contending before you today, then no meaningful discussions could be held. He was informed that if, on the other hand, it was his desire to withdraw his allegations of violations in respect of the

application of existing agreements, the Company was quite prepared to carry out its undertakings given earlier to sit down and make whatever amendments were found necessary to eliminate any inequities if such were found to exist.

68. Mr. Blanchette decided to submit a ballot to his membership to determine whether to go to arbitration and claim a violation of the May 30th, 1966 agreements and the Master Agreement of March 14th, 1967, or whether to withdraw his claim in this respect and meet with the Company's officers to work out possible amendments to the May 30th, 1966 agreements.

69. Our information is that the vote was in favour of going to arbitration on the present agreements.

70. Referring again to the Master Agreement signed on March 14th, 1967, (Appendix "F"), it will be seen from Article 1 thereof that the wage increases were to be applied to basic rates. The term "basic rate" has always been used in Master Agreements for the purpose of expressing clearly that the wage increases are applicable to the agreed job rate and not to what are referred to in railway parlance as "incumbency rates" - that is rates above the agreed job rates that are paid to existing incumbents for one reason or another. This is quite consistent with the

provisions contained in the Memorandum of Agreement of May 30th, 1966 (Appendix "C") wherein it is clearly stated that no general wage increases would be applied to the rates quoted in that agreement, which were incumbency rates specially agreed to for Porters. It is consistent also with the provision contained in the Letter of Agreement of May 30th, 1966, (which established the new basic rates for Porters) and which clearly provides that it is to these basic rates only that future general increases would be applied.

71. The rate increases provided for by the Master Agreement (Appendix "F"), were, therefore, applied to the rate scale shown in Letter of Agreement of May 30th, 1966, (Appendix "D"). The new basic rates for Porters in accordance with the Letter of Agreement of May 30th, 1966, (Appendix "D"), increased according to the wage increases provided for in the Master Agreement of March 14th, 1967, are shown in Appendix "H" to this Submission.

72. It will be seen from the Memorandum of Agreement of May 30th, 1966, (Appendix "C"), which guaranteed porters the rates in existence on December 31st, 1965, and from the new basic rate scale contained in the Letter of Agreement of May 30th, 1966, (Appendix "D") adjusted upward by the increases provided for in the Master Agreement of

March 14th, 1967, (see Appendix "H") that the former guaranteed rates still exceed the adjusted new basic rates and consequently the porters, in accordance with the May 30th, 1966 agreement continue to receive the guaranteed rates. In other words they receive the higher of the two scales.

H

73. It will be further noted from Appendix " " that effective January 1st, 1968, with application of the final 6% wage increase provided for in the Master Agreement of March 14th, 1967, (Appendix "F") the new basic rates of porters will exceed the guaranteed rates contained in the Memorandum of Agreement of May 30th, 1966, (Appendix "C") and will, therefore, become effective in accordance with the provisions of the May 30th, 1966 agreements.

74. The rates presently being paid to porters are, therefore, the guaranteed rates contained in the Memorandum of Agreement of May 30th, 1966, (Appendix "C"). The increases provided for in the Master Agreement of March 14th, 1967, (Appendix "F") have been applied to the rates contained in the letter of agreement of May 30th, 1966 (Appendix "D") and these rates will apply to porters from the date they exceed those contained in Appendix "C" which will be on January 1st, 1968.

COMPANY'S CONTENTION.

75. The Company's Contention is simply that the rates of pay presently in effect for Porters are entirely in accord with current agreements

in effect between the Company and its Porters.

76. The key factors in this dispute are the Memorandum of Agreement (Appendix "C") and the Letter of Agreement (Appendix "D") signed by the Porters and the Company on May 30th, 1966.

77. The Master Agreement of March 14th, 1967, is also, of course, a factor in that it sets out the wage increases to be applied to non-operating employees, wage rates, including Porters, over the three year period of the agreement from January 1st, 1966 to December 31st, 1968.

78. The Master Agreement, however, merely sets forth the increases that were to be applied to the "basic monthly, daily and hourly rates" in the various individual collective agreements to which it applied. The "basic" rates to which the increases were to apply are found in each collective agreement. Article I of the Master Agreement commences:

> "All basic hourly, daily, monthly and mileage rates will be increased as follows:"

79. We must now, therefore, refer to the collective agreement with the Porters to find the "basic" rates to which the increases provided would apply.

80. The Porters are contending that these "basic" rates are to be found in the Memorandum of Agreement of May 30th, 1966. The Company

contends that the "basic" rates to which the Master Agreement increases apply are those established by the Letter of Agreement of May 30th, 1966.

MEMORANDUM OF AGREEMENT OF MAY 30th, 1966.

81. Let us now, therefore, refer to the Memorandum of Agreement of May 30th, 1966, (Appendix "C") and examine the claim of the Porters that the Master Agreement increases are properly applicable to the rates set forth therein.

82. Firstly, it will be noted that the rates shown are identified only as monthly and hourly rates. They are not identified as "basic" monthly and hourly rates. These rates were not identified as "basic" rates because there was no intention that they be increased by any subsequent general wage increases. It was known, of course, that the Master Agreement to be signed later would, as Master Agreements have always done, confine the application of the increases to "basic" rates.

83. Secondly, in order to ensure that the Memorandum of Agreement was abundantly clear in this respect, the following provision was included therein:

> "The foregoing monthly and hourly rates of pay shall be effective on the dates shown. They shall not be subject to any upward adjustments and shall remain in effect unless and until they are overtaken by the basic schedule monthly and hourly rates contained in Letter of Agreement signed at Montreal, May 30th, 1966."

84. Clearly, therefore, the rates of pay quoted in this Memorandum of Agreement were frozen and not subject to any increases. These rates were the rates then in effect for Porters. This Memorandum of Agreement reduced the monthly hours of Porters from 208 to 173 1/3 and provided that the existing rates of pay would be retained, in order that no porter would receive a lesser wage for working 173 1/3 hours in a month than he formerly received for working 208 hours. It clearly provided, however, that these rates would not be subject to any upward adjustments. It will be recalled here that this was the proposal advanced by Mr. R. C. Smith, Chairman of the Associated Non-Operating Unions.

85. The Memorandum of Agreement clearly provides that the rates of pay set forth therein "shall remain in effect unless and until they are overtaken by the basic schedule monthly and hourly rates contained in letter of agreement of May 30th, 1966." In accordance with this agreement, these rates continue to be paid as they have not yet been overtaken by the basic schedule rates contained in the letter of agreement.

86. Before discussing the letter of agreement of May 30th, 1966, (Appendix "D"), there is one feature of the Memorandum of Agreement that should be noted - not because it has any bearing on this dispute - but rather because it is understood the union will be

commenting on it. It will be observed that the monthly rate is shown only in the rate column "up to and including September 30th, 1966". In the columns headed "October 1st, 1966" and "April 1st, 1967", it will be seen that the hourly rates are shown as increasing which, of course, was necessary to retain the existing monthly rates on the basis of the reduced monthly hours. While the monthly rates are not quoted in the October 1st, 1966 and April 1st, 1967 rate columns, it will be observed that they are clearly provided for in the headings of each column which specify the hours that constitute a month's work. A simple calculation will show that in each case the hourly rate shown multiplied by the hours shown as constituting a month's work will give the monthly rate formerly in effect.

LETTER OF AGREEMENT OF MAY 30th, 1966.

87. Let us now examine the letter of agreement of May 30th, 1966.

88. We have seen that the Memorandum of Agreement just discussed, while providing for reductions in hours of work, protected the Porters against any reductions in wage rates being received prior to the hours reductions - such rates being frozen in that they were not, as stated in the agreement, subject to any upward adjustments.

89. The letter of agreement was necessary, therefore, to clearly establish the manner in which wage increases would be applied. It served no other purpose.

90. It will be seen that the wage scale provided in this letter of agreement is set up on the identical basis as the wage scale in the Memorandum of Agreement. The difference is that the hourly rates are shown as being unchanged on the dates the reduced hours of service came into effect on October 1st, 1966, and April 1st, 1967. The result of this is, of course, that the monthly rates are reduced proportionately to the reduction in hours.

Example:

Full rate of porter in effect prior to October 1st, 1966, was $356.88 per month and $1.716 per hour ($356.88 ÷ 208 hours). The monthly rate effective October 1st, 1966, became $312.31 ($1.716 x 182 hours); on April 1st, 1967, the monthly rate became $297.43. While these monthly rates are not shown in the Letter of Agreement (at Mr. Blanchette's request) they are as clearly provided for as if they had been quoted. This is seen from the headings on the rate columns which for October 1st, 1966, state that the monthly rate is 182 hours and for April 1st, 1967, that the monthly rate is 173 1/3 hours.

91. Let us now recall again that the Master Agreement of March 14th, 1967, clearly provided for the increases set forth therein to be applied to "basic" rates of pay. We noted earlier that the rates set out in the Memorandum of Agreement were identified merely as monthly and hourly rates. Reference to the Letter of Agreement will show that the rates set forth therein are clearly identified as "basic" rates of pay. There can, therefore, surely be no question that the increases provided in the Master Agreement must, in accordance with that agreement, be applied to the "basic" rates - i.e., those contained and identified as such in the Letter of Agreement of May 30th, 1966.

92. Further confirmation, if indeed at this point further confirmation is desired, of the applicability of the Master Agreement increases to the wage scale contained in the Letter of Agreement of May 30th, 1966, ONLY, this is found in the further provision contained in the latter, reading as follows:

> "The following basic rates of pay shall not be applicable unless and until such rates, plus any general wage increases applicable to Porters exceed the monthly and hourly rates for Porters contained in Memorandum of Agreement signed at Montreal, Que., May 30th, 1966:"

93. The increases provided for in the Master Agreement, to be applicable to "basic" rates, have, therefore, been applied to the "basic" wage rates contained in the Letter of Agreement of May 30th, 1966; and in conformity with the provision in that agreement ~~to the effect~~ that any future general wage increases would be applied to the rates contained therein.

94. To summarize, therefore, the wage increases provided for in the Master Agreement of March 14th, 1967, have not been applied to the hourly and monthly rates contained in the Memorandum of Agreement of May 30th, 1966, because:

> (1) The wage increases provided in the Master Agreement were clearly specified as being applicable to "basic" rates and the rates shown in the Memorandum of Agreement are not identified therein as "basic" rates.
>
> (2) The Memorandum of Agreement contains a provision clearly stating that the rates contained therein "shall not be subject to any upward adjustments."
>
> (3) The Memorandum of Agreement further provides that the rates contained therein shall remain in

effect unless and until they are overtaken by the basic monthly and hourly rates contained in Letter of Agreement of May 30th, 1966.

The wage increases provided in the Master Agreement have been applied to the hourly and monthly rates specified in the Letter of Agreement of May 30th, 1966, because:

(1) The wage increases provided in the Master Agreement were clearly specified as being applicable to "basic" rates and the rates shown in the Letter of Agreement are clearly identified as "basic" rates.

(2) Both the Memorandum of Agreement and the Letter of Agreement provide that the rates contained in the Letter of Agreement will come into force when they overtake the rates contained in the Memorandum of Agreement; as stated in the Letter of Agreement the overtaking process results from the application of general wage increases to rates contained therein.

95. The wage rates contained in the Letter of Agreement of May 30th, 1966, have, therefore, been adjusted upward by application of the increases provided for in the Master Agreement of March 14th, 1967. The adjusted rates are shown in Appendix "H".

96. It will be seen that the basic rates in the Letter of Agreement, increased by the wage adjustments provided in the Master Agreement (Appendix "H") do not as yet exceed the rates for Porters contained in the Memorandum of Agreement of May 30th, 1966. Consequently, the Memorandum of Agreement rates, being the higher, continue to be paid in accordance with the provisions of both of the May 30th, 1966 agreements.

97. It will be further noted that application of the 6% increase provided by the Master Agreement of March 14th, 1967, effective January 1st, 1968, will cause this wage scale to overtake the frozen wage scale contained in the Memorandum of Agreement of May 30th, 1966. Therefore, in accordance with the terms of the Letter of Agreement and of the Memorandum of Agreement this adjusted wage scale will go into force on January 1st, 1968.

98. It is submitted that the foregoing establishes beyond any doubt that the rates presently being paid to porters are in accordance with the agreements of May 30th, 1966, between the Porters and the Company and with the Master Agreement of March 14th, 1967, between the Railways and the Associated Non-Operating Groups.

99. The claim of the Porters, on the other hand, that the Master Agreement increases should be applied on the wage scale contained in the Memorandum of Agreement of May 30th, 1966, fails, it is submitted, for the following reasons:

(1) It would require the increases provided in the Master Agreement to be applied to non "basic" rates, contrary to the provisions of the Master Agreement that the increases therein were to apply to "basic" rates of pay.

(2) It would require total disregard of the provision in the Memorandum of Agreement that the wage rates shown therein "shall not be subject to any upward adjustments and shall remain in effect unless and until they are overtaken by the basic schedule monthly and hourly rates contained in the Letter of Agreement of May 30th, 1966.

(3) It would require total disregard of the fact that the wage rates shown in the Letter of Agreement are, unlike those in the Memorandum of Agreement, clearly identified as "basic" rates and, therefore, are the rates to which the Master Agreement increases are clearly applicable.

(4) It would require total disregard of the provision in the Letter of Agreement of May 30th, 1966, providing for general wage increases to be applied to the wage scale contained therein.

(5) It would, in fact, require abrogation of the Letter of Agreement of May 30th, 1966, because on the basis of the union's claim it could have no possible meaning or application because the rates contained therein could never overtake those of the Memorandum of Agreement if the latter rates were increased by general wage increases.

(6) It would provide for unrestricted retention of take-home pay consequent upon the reduction made in hours of service, which demand was clearly rejected by the Company on numerous occasions prior to the settlement reacged on May 30th, 1966.

(7) It would render meaningless the attempt made on December 17th, 1966, by the Chairman of the Associated Non-Operating Unions and by the Porters' Representative to obtain, as part of the general settlement with the non-operating unions, amendments to the May 30th, 1966, agreements with the Porters to the extent of granting the Canadian National Porters agreement for a modified retention of take-home pay; i.e., it is meaningless unless we are to believe that the Porters were requesting on December 17th, 1966, changes in their agreements of May 30th, 1966, that would give them less than they are now claiming before this arbitration that they already had.

100. In the light of the evidence, it is submitted that the Porters' claim cannot succeed on the basis of the existing agreements and that the settlement they seek would require substantial amendments to the agreement.

ASA PHILIP RANDOLPH

SUBJECT FILE BROTHERHOOD OF SLEEPING CAR PORTERS

Legal Papers

Railway Labor Disputes and Settlements

Undated

(10)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

BROTHERHOOD OF LOCOMOTIVE ENGINEERS and RAILWAY LABOR EXECUTIVES' ASSOCIATION, Plaintiffs, v. UNITED STATES OF AMERICA, and INTERSTATE COMMERCE COMMISSION, Defendants.	NO. C 63-55

BRIEF OF BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND RAILWAY LABOR EXECUTIVES' ASSOCIATION

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

BROTHERHOOD OF LOCOMOTIVE ENGINEERS)
and RAILWAY LABOR EXECUTIVES')
ASSOCIATION,)
)
Plaintiffs,)
)
v.) NO. C 63-55
)
UNITED STATES OF AMERICA, and)
INTERSTATE COMMERCE COMMISSION,)
)
Defendants.)
)
)

BRIEF OF BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND RAILWAY LABOR EXECUTIVES' ASSOCIATION

INTRODUCTION

Plaintiffs R.L.E.A.[1] and B.L.E.[2] seek herein to suspend, annul, enjoin, and set aside an order of the Commission[3] which permits the Rutland[4] to abandon its entire line of railroad, except for a short section located between Norwood, New York, and Malone, New York. This relief is sought on the grounds that the order was (1) arbitrary, capricious, and an abuse of discretion, (2) in excess of the statutory jurisdiction and authority of the Commission, (3) issued without observance of procedure required by law, and (4) unsupported by substantial evidence.

In an abandonment proceeding the test or criterion applied by the Commission is whether "the present or future public convenience

---

1. Refers to Plaintiff Railway Labor Executives' Association
2. Refers to Plaintiff Brotherhood of Locomotive Engineers
3. Refers to the Interstate Commerce Commission
4. Refers to The Rutland Railway Corporation

and necessity permit of such abandonment." Interstate Commerce Act § 1(18), ~~45~~ 49 U.S.C. § 1(18). The record in this case shows that there is a compelling public need for service over many parts of the Rutland's line. (R. 53). The State of Vermont, which originally intervened in the proceeding as a protestant and later became a proponent is emphatic in its view that railroad service in these key economic areas cannot be eliminated. (R. 5,6-7,29-30, 48, 55). The State of Vermont is refusing to take seriously the implication attaching to a certificate of abandonment to the effect that service can be eliminated without imperiling the present or future public convenience and necessity of the area affected, and is, instead, viewing the proceedings as a device to bring about restoration of railroad service. The State of Vermont's position has been the anomalous one of not opposing the abandonment of the railroad but strongly opposing the abandonment of railroad service. (R. 29). The certificate to abandon, however, gives the Rutland the absolute right to scrap its line down to the last tie in the roadbed.

Indeed, the Commission itself appears to have issued the certificate of abandonment on the gratuitous assumption that the Rutland will not actually exercise the right to dismantle its line in the key industrial areas, but, rather, will sell those portions of the line to unidentified and undisclosed other carriers who thereafter will provide shippers and users the same railroad service formerly rendered by the Rutland. (R. 55). Plaintiffs submit that, if the Commission really thought the Rutland would exercise the authority granted to the fullest extent, it would never have issued the certificate. Yet, the irony of the matter is that there is no assurance that the scrapping of the entire line will not be the ultimate result, except, of course, the Norwood-Malone section.

STATEMENT OF THE CASE

The Rutland is a railroad common carrier providing freight service across the entire western half of Vermont and the northeastern tip of New York. (R.[5] 9). It operated at substantial losses from 1950, when it was reorganized out of receivership, until 1954, but earned a profit from 1955 through 1959. (R. 16-17). In 1960 through 1962 it suffered net losses of increasing magnitude, but in each of those years the carrier was shut down part or all of the year due to strikes. Thus, in 1960, a 41 day strike occurred, the practical effect of which was to make it a 10-month year, (R. 11), and on September 25, 1961, a second strike was called which is still in effect at the present time. (R. 11, 49).

The profit years of 1955 through 1958 were attributable in some part to increased freight traffic obtained in connection with the construction of the St. Lawrence Seaway. (R. 49). The Rutland's chief witness on this point, its Vice President and Comptroller, Lloyd Bucklin, conceded that not all of the profit during those years was due to the Seaway Traffic, however, and he would not even hazard a guess as to what percentage of the profit could be allocated to such business. (Tr.[6] 791-792).

At the hearing below, the Rutland offered testimony to the effect that freight traffic was decreasing in the territory through which it operated. It attributed such losses to competition from motor carriers and the general economic decline of business and industry in Vermont. (R. 49). However, a study made by the New York consulting engineering firm of Coverdale & Colpitts, which was retained by the State of Vermont for the purposes of making a survey, indicated that in the year 1961 there would have been sufficient traffic to have enabled the Rutland to earn a net profit of $153,252.00 if the strike of September 25, 1961, had not been called. (R. 31). The Commission disagreed with witness Sidney Rodgers of Coverdale & Colpitts on this point and reduced his estimated 1961 net profit ~~from~~ of $153,252.00 by some $142,000.00 (R. 50), but, even so, this means that a small net profit would, or could, have been earned. The estimate of a profit for 1961 is noteworthy in that, as Rodgers conceded on cross examination, 1961 was not a prosperous year for the railroad industry in general, and, particularly in New England. Both 1960 and 1961 were recession years, but business conditions were getting better in 1962. (Tr. 868). The falling away of traffic during the years 1960 and 1961 was, therefore, not a phenomenon limited to the Rutland, but was part of the common experience of railroads serving New England, (Tr. 866-869), and the Rutland if it would have earned any profit in those years would have been more than holding its own in comparison with other New England railroads.

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[5] Refers to the report of the Commission in this case, a copy of which has been attached to the Complaint as an Exhibit.

[6] Refers to the transcript of the hearings held in this proceeding before Hearing Examiner Clarence K. Young from March 22, 1962, to April 4, 1962.

The two strikes in 1960 and 1961 have depleted the cash reserves of the Rutland and it was estimated by its Vice President and Comptroller Lloyd Bucklin that $500,000.00 would have to be raised in order to resume operations of the carrier. (R. 18,51). There is no indication that the necessary capital could not be secured if operations were to be resumed, however. The Rutland's financial position, notwithstanding the drain on its working capital caused by the strike, is extremely favorable. It has, for instance, no long term indebtedness. (Appendix B to Report).

A deferred maintenance analysis was also offered by the Rutland in an effort to show that the maintenance expenses in the near future would be prohibitively high. The witness who testified about the maintenance of the road, the Rutland's chief engineer Harold Lundin, was so evasive in his testimony on cross-examination that plaintiffs submit he was not worthy of belief. The fact that Lundin's testimony was not evaluated with respect to credibility by Hearing Examiner Clarence K. Young, who presided at the hearing, is one of the assignments of error in this proceeding.

The Commission drew some negative conclusions respecting the prospects for future operations over the Rutland's line of railroad, and pointed to gradual decreases in the amount of traffic carried in the year 1961 and 1962. It concluded "that traffic, both originating and terminating, as well as overhead, was lost through the 1960 strike and additional traffic might be irretrievably lost due to the still continuing 1961 strike." (R. 49). Since the evidence on this point, however, with which the Commission agreed, is that in 1961, the carrier would have been able to earn a profit on the volume of traffic that would have been carried, it follows that a substantial part of the traffic diverted due to the 1960 strike was, or would have been, recaptured. As to whether the Rutland might be able to recapture traffic diverted to other carriers due to the still continuing 1961 strike, witness Sidney

Rodgers found from a survey of Vermont shippers that all but a very few would return to the Rutland at their first opportunity. (R. 32). This hardly supports the Commission's conclusion that there was a "probability that [the Rutland] would be unable to regain much of the traffic diverted to other carriers during its long period of inoperation...:" (R. 51). No other explanation is given by the Commission for this conclusion nor do we understand why on page 49 of its Report the Commission felt that the traffic diverted during the 1961 strike "might be irretrievably lost", whereas on page 51 the permanent lost of such traffic was a "probability."

The Rutland, upon whom the burden of proof rested, was able to show little more than losses in strike-bound years, which would be expected, and a record of declines in traffic from about 1956 onward. The declining traffic had not reached the point, however, that the carrier was operating at a net loss during any period of normal operations.

PROCEEDINGS BEFORE THE COMMISSION

The Rutland on December 4, 1961, filed its application for a certificate of public convenience and necessity permitting abandonment of its entire line of railroad and abandonment of operations over lines of the Boston & Maine Railroad, the Troy Union Railroad, and the New York Central Railroad Company over which it had trackage rights. Authorization to file the application was obtained from the carrier's board of directors on October 23, 1961, just 28 days after the strike of September 25, 1961, was called. Protests were filed and the matter was referred to Examiner Clarence K. Young for hearing and for the recommendation of an appropriate order thereon, accompanied by reasons therefor.

Hearings were held in Rutland, Vermont, on March 22-23, 1962; in Malone, New York, on March 26-27, 1962; and in Rutland again on April 3-4, 1962. Examiner Young fixed the date of June 11, 1962, for the filing and serving of initial briefs. The State of Vermont filed a motion with the Commission after the hearings were closed requesting omission of the recommended decision and order of the hearing examiner so that the initial decision would be made by the Commission, acting through the panel of Commissioners known as Division 3. Authority for such request was said to be contained in Section 8(a)(2) of the Administrative Procedure Act. The Rutland, by petition, joined in this request, which was opposed by plaintiffs R.L.E.A. and B.L.E. (R. 3). The request was granted by the Commission and its Report and Order herein were issued on September 18, 1962, without benefit of a recommended decision and order from Examiner Young.

The Report concluded that abandonment of the entire line of railroad and of operations over lines on which the Rutland had trackage rights was consistent with the present and future public convenience and necessity, except that it was not permitted to abandon that portion of its line between Norwood, New York, and Malone, New York. The Norwood-Malone Section was subject to a trackage rights lease between the Rutland and the New York Central. The Rutland was certificated for abandonment of operation over the Norwood-Malone section, however. The only condition attached to consummation of the abandonment was that the Rutland shall sell any portion of its line (except the Norwood-Malone segment) including tracks and other facilities as may be essential to its continued operation to any responsible person, firm, or corporation offering, within 3 months after the effective date of the certificate and order, to purchase the same for continued operation at a price of not less than net salvage value of the property sought to be acquiesed. (R.56).

The Report of Division 3 did not consider the question whether its certificate, being predicated in substantial part upon operating losses suffered by the Rutland due to labor disputes and strikes, was in contravention of national railroad labor policy as enunciated in the Railway Labor Act, 45 U.S.C. § ~~181~~ 151 et seq. It further gave no consideration to the accommodation of the diverse policies of the Interstate Commerce Act and the Railway Labor Act.

The Report, moreover, concluded that conditions for the protection of Rutland employees who would be adversely affected by the abandonment should not, and would not, be imposed. The reason given for denial of any kind of protective conditions was: "This Commission [in past cases] has refused to impose conditions for the protection of railway employees adversely affected by the abandonment of an entire line of railroad." (R. 27). A number of old Commission decisions were cited in support of this holding, but those decisions, in turn, likewise denied protective conditions to employees in entire line abandonments without stating any reasoned basis therefor.

The Commission did say in connection with the protective conditions issue that there was no "evidence of record making the imposition of protective labor conditions reasonable and in the public interest." (R. 29). Plaintiff R.L.E.A. took the position in its reply brief to the Commission that there were ample facts on the record to justify the imposition of protective conditions. The abandonment of this line of railroad, if permitted, would be based upon artificial (non-operational) losses brought about by a strike which management despaired of settling less than 30 days after it was called. This hardly spoke for a firm desire on the part of management to continue operating its railroad. Moreover, the capital position of the Rutland is exceedingly strong for a railroad that seeks authority to abandon its entire line, and ability to pay the cost of protective conditions was never disputed by the Rutland.

After the issuance of the Report and Order a news release appeared in the September 29, 1962, issue of "Business Week." a weekly periodical published by McGraw-Hill Publishing Co., Inc., 330 W. 42nd Street, New York 36, New York, which purported to report an interview between a Business Week reporter and William I. Ginsburg, president of the Rutland. The gist of the news release was that Ginsburg had deals "already lined up" with the New York Central R.R. and various municipalities in Vermont "to sell off" portions of the line of railroad, and that virtually windfall profits could be realized by the shareholders as a result of the abandonment. This information came as a complete surprise and shock to plaintiffs, especially the part regarding "deals already lined up" since this was directly contrary to representations made at the time of the hearing that no "deals" were in existence for the sale of parts of the Rutland to other carriers. (Tr. 155-156). At any rate, plaintiff R.L.E.A., citing the "Business Week" article as a basis of newly discovered evidence, filed a motion with the Commission to reopen the proceedings for the purpose of holding additional hearings to receive "evidence on the economic position of [the Rutland] in the event abandonment is permitted." This motion was denied.

Following this, the plaintiffs B.L.E. and R.L.E.A. on October 21, 1962, filed a petition for reconsideration by Division 3 of its Report and Order. This was also denied.

Finally, plaintiff R.L.E.A. on December 14,1962, filed a petition with the full Commission asking it to find, on its own, motion that the proceeding was one involving issues of general transportation importance which should be considered by the full Commission, and requesting a stay of the effective date of the Order until the proceeding was disposed of. This was denied by the full Commission on January 19, 1963, with instructions that the Order herein be made effective 20 days thereafter. No further remedies were available before the Commission, and plaintiffs, thereafter, on January 28, 1963, filed this complaint in the United States District Court for the Northern District of Ohio, Eastern Division.

STATUTES INVOLVED

It is conceded by all of the parties that the Complaint herein is properly within the jurisdiction of the three judge court and that the venue is properly laid in the Northern District of Ohio, Eastern Division. For this reason, we will not reproduce the applicable jurisdictional and venue statutes, 28 U.S.C. §§ 1336, 1398, 2284, and 2321-2325.

Sections 1(18) - 1(20) of the Interstate Commerce Act, 49 U.S.C. §§ 1(18) - 1(20) govern Commission action with respect to abandonments.

Sections 5 and 8 of the Administrative Procedure Act, 5 U.S.C. §§ 4 and 7, prescribe the standards that the Commission and other federal administrative agencies are required to observe in their decisions.

Section 10 of the Administrative Procedure Act, 5 U.S.C. § 1009 prescribes the standards for judicial review of agency action.

The text of Sections 1(18) - 1(20) of the Interstate Commerce Act and Sections 5, 8, and 10 of the Administrative Procedure Act is reproduced in Appendix A attached to this brief.

ARGUMENT

I. The Commission's Decision and Order Is Void Because It Was Rendered By the Commission Without a Recommended Decision and Order from the Hearing Examiner, and, Therefore, Without Observance of Procedure Required By Law

At the conclusion of the hearings held in this proceeding, and before any decision or order was issued a fundamental and prejudicial error was committed by the Commission which rendered nugatory all action taken thereafter. The Commission, acting under presumed authority in Section 8(a) of the Administrative Procedure Act, and over the plaintiffs' protests, erroneously granted the requests of the Rutland and the State of Vermont to eliminate the hearing examiner's recommended decision and order, and thereafter issued its Report and Order strictly on the basis of the printed transcript of the hearing and the briefs of the respective parties. This violated a basic procedural requirement of Section 8(a) of the Administrative Procedure Act that the record made in the proceeding must first be evaluated by the officer or agent who presided at the hearing, and who, in a sense, was the trial judge. Pursuant to Section 10(e)(B)(4) of the Administrative Procedure Act "[the court] shall hold unlawful and set aside agency action, findings, and conclusions found to be ...(4) without observance of procedure required by law;...."

Section 8(a) of the Administrative Procedure Act provides in pertinent part:

> "8. In cases in which a hearing is required to be conducted in conformity with section 7 --
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> > "(a) In cases in which the agency has not presided at the reception of the evidence the officer who presided...shall initially decide the case or the agency shall require... the entire record to be certified to it for initial decision.... Whenever the agency makes the initial decision without having presided at the reception of the evidence, such officers shall first recommend a decision except that in rule making or determining applications for initial licenses (1) in lieu thereof the agency may issue a tentative decision or any of its responsible officers may recommend a decision or (2) any such procedure may be omitted in any case in which the agency finds upon the record that due and timely execution of its functions imperatively and unavoidably so requires."

Hearings conducted by the Commission are unquestionably subject to the provisions of Section 8(a) of the Administrative Procedure Act. Minneapolis & St. L. R. Co. v. U. S. 361 U.S. 173, 192 (1959); Riss & Co. v. U.S. 96 F. Supp. 452 (W.D. Mo. 1950), aff'd 179 F. 2d 810 (C.A. D.C. 1950), rev'd 341 U.S. 907 (1951). In Riss, the plaintiff was a motor carrier which filed an application before the Commission for a certificate of public convenience and necessity to extend its common carrier operations. The application was filed under Section 207(a) of the Interstate Commerce Act, 49 U.S.C. § 307(a), the motor carrier equivalent or counterpart of Sections 1(18) - 1(20) which are involved in the present case and the plaintiff contended that the hearing was not conducted in conformity with the Administrative Procedure Act. The District Court held that Section 207(a) of the Interstate Commerce Act did not in express terms require the Commission to hold a hearing on an application for a certificate of convenience and necessity filed by a motor carrier, and that, accordingly, Sections 5, 7, and 8 of the Administrative Procedure Act were not applicable. The United States Supreme Court in a per curiam decision reversed this decision, citing its previous decision in an immigration case, Wong Yang Sung v. McGrath, 339 U.S. 33 (1950).

Since the hearings in the present case had to be conducted in conformity with the Administrative Procedure Act, it is clear that, pursuant to Section 8(a) thereof, the initial decision by the Commission could not be made without the prior submission of a recommended decision by the officer who presided over the hearing, except in two types of proceedings: (1) rule making and (2) determining applications for initial licenses.

An abandonment application is obviously not "rule making." It is, in a sense, an application for a "license" as that term is defined in Section 2(e) of the Administrative Procedure Act, i.e.:

"'License' includes the whole or part of any agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission."; but it is not an application for an "initial license." The latter point was expressly passed upon in Chotin Towing Corporation v. Federal Power Commission, 250 F. 2d 394 (C.A. D.C. 1957). In Chotin, a pipe line company filed applications with the Federal Power Commission to abandon one of its pipelines. This application was consolidated for hearing by the Federal Power Commission with a second application to construct substitute facilities, and after the hearings concluded, the Commission directed the omission of the intermediate decision procedure. The Court held that the omission of the intermediate decision procedure invalidated the proceedings on the abandonment application and remanded the case to the Commission for further proceedings. In the course of its opinion, the Court said:

> "Section 8(a) permits omission of intermediate decision procedure in 'determining applications for initial licenses * * *.' The statute does not define the word 'initial.' Its common-sense meaning, as petitioner states, would suggest that 'An application to withdraw, limit, terminate or modify all or part of * * * existing rights and obligations established in an outstanding license is not an application for an initial license.'
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> "[1] We cannot accept a construction of the statute that would dispense with the necessity of an intermediate decision in practically all cases except accusatory or disciplinary proceedings instituted against licensees. If all applications by licensees are to be considered applications for 'initial' licenses, the statutory word 'initial' is mere surplusage. We see no reason to read the statute in that way. Nor has our attention been called to anything in the legislative history suggesting that Congress could have intended such a reading. The broad remedial purposes of the

> Administrative Procedure Act suggest that narrowing exceptions should not be extended by strained construction.
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> "[2] The abandonment application, as we read the statute, was not an application for an initial license. And it was not made so by being consolidated for hearing with an application for new facilities which was an application for an initial license.
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> "Remanded for further proceedings not inconsistent with this opinion."

In Colorado Interstate Gas Co. v. Fed. Power Comm., 209 F. 2d 717, 722 (C.A. 10 Ch 1954), the court said:

> "[1] There are not many decided cases which have dealt with the power of the Commission to dispense with the trial examiner's initial report. In Kenny v. United States, D.C., 103 F. Supp. 971, 977, a three-judge court held that under the Interstate Commerce Act, 49 U.S.C.A. § 1, et seq., the exceptions embodied in Section 1007(a)(2) were intended to permit the omission of the intermediary report or tentative decision by a trial examiner where the law contemplated speedy and expeditious proceeding by the agency. While that case arose before the Interstate Commerce Commission under the Interstate Commerce Act providing that the Commission 'shall give to the hearing and decision * * * preference over all other questions', § 15(7), we think what was said applies with equal force and logic under the Act in question here. We think it is clear that Congress intended that party contestants before the Commission are as a matter of right entitled to the benefits of the intermediate report save only in the two exceptions noted in Section 1007(a)(2) but we are of the further view that under the exceptions as noted the Commission may in the exercise of a sound discretion either upon its own volition or upon the application of any party to the proceeding dispense with the filing of the report." (Emphasis supplied).

The recent case of Kroblin Refrigerated Xpress, Inc., v. U.S., 197 F. Supp. 39 (N.D. Iowa, E.D. 1961) involved a proceeding before the Interstate Commerce Commission under Section 204(c) of the Act, 49 U.S.C. § 304(c), to revoke the certificate of a motor carrier. The examiner's recommended decision was omitted by the

Commission acting through Division 5 and the motor carrier brought an action in the District Court to set the Commission's order aside on the ground that it was not issued in conformity with the Administrative Procedure Act. The Commission thereafter voluntarily vacated its prior order and referred the matter back to the Commissioner who presided at the hearing for the issuance of an initial decision. The motor carrier thereupon dismissed the first suit, but later instituted a second suit alleging, among other things, that since the initial decision served by the "hearing Commissioner" was practically a verbatim copy of the previous report of Division 5 it did not represent the hearing Commissioner's independent judgment and opinion and was not in compliance with Section 8 of the Administrative Procedure Act. The court would not go along with the plaintiff on this last point, however, and held that the procedure followed was not violative of the law. It said at 197 F. Supp. at 45:

> "The plaintiff argues that even though the matter was referred back for an initial report, and such report was issued by the Hearing Commissioner it is not a true 'initial report' as contemplated by Sec. 8 of the Administrative Procedure Act on the ground that it did not represent the independent judgment and opinion of the officer presiding at the initial hearing, since it was substantially identical to the Commission's report.
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> "[7,8] This Court cannot say that it was necessary for the hearing officer to rewrite the Commission's earlier report if the same reflected his findings and conclusions. The purpose of requiring an initial report appears not to be merely blind obedience to an administrative technicality, but rather to make certain that adequate notice will be given the parties concerned. As stated in Western Union Division, Commercial Telegraphers' Union, A.F. of L. v. United States, D.C. D.C. 1949, 87 F. Supp. 324, at page 334, affirmed 338 U.S. 864, 70 S.Ct. 148, 94 L. Ed. 530:

> 'The purpose of the cited provisions of the Administrative Procedure Act, supra, (including 5 U.S.C.A. 1007) is to insure procedures by which parties may be fully informed of the issues and proposed grounds of decision and be afforded full opportunity to be heard upon these issues and grounds.'"

T.S.C. Motor Freight Lines, Inc. v. U.S. 186 F. Supp. 777, (S.D. Texas 1960) was a case in which plaintiffs sought to set aside a certificate of convenience and necessity issued to two motor carriers. Plaintiffs objected to the fact that after hearings and submission of the hearing examiner's recommended decision the case was not decided by Division 1, but, instead, was referred by Division 1 to the full Commission for initial decision. The Commission used "attorney advisers," who were not qualified as examiners under Section 11 of the Administrative Procedure Act, and whose recommendations aided the Commission in reaching its decision. The court did not agree with plaintiffs that this procedure was erroneous but, at pages 789-790, made the following observations about the importance of the recommended decision procedure:

> "[11-13] The distinction between the function of a Hearing Examiner and the Commission (or a division of it) must be kept carefully in mind. Much is committed to the Examiner and the aim of the APA was to give him a position of judicial independence and disinterestedness. His findings and conclusions, or recommended action, will have great significance. But the final decision is that of the Commission. The Commission is not, as would be the case of a court reviewing a trial judge's non-jury decision or the action of an administrative agency under clearly erroneous or substantial evidence concepts, bound by the Examiner's decision. It is, of course, a relevant and important part of the administrative record. Universal Camera Corp. v. N.L.R.B., 1951, 340 U.S. 474, 492-497, 71 S.Ct. 456, 95 L. Ed. 456,

> 469-472. But the final decision must be that of the Commission. Consequently it is not a mere matter of the Commission's reviewing the Examiner's proposed report to see whether it is supported by sufficient evidence. That means that in the performance of this duty of ultimate responsibility the Commission and its members may properly call on staff assistance in satisfying the almost insuperable demands on this personal institutional accountability." (Emphasis supplied.)

Defendants may possibly cite the case of Canadian Pacific Railway Co. v. U.S., 158 F. Supp. 248 (D. Minn. 1958) in an attempt to argue that violation of the provisions of Section 8(a) of the Administrative Procedure Act requiring the recommended decision procedure does not constitute prejudicial error unless the record presents "doubtful fact-issues, the determination of which must turn upon the credibility of witnesses and the weight of the evidence...."

In the first place, even if the Canadian Pacific decision were correct, it would not justify omission of a recommended decision in the present case because the issue of the credibility of two of the three principal Rutland witnesses, Chief Engineer Harold Lundin and Sidney Rodgers of the consulting engineering firm of Coverdale & Colpitts, is a contested issue in the proceeding. This was pointed out to the Commission by the R.L.E.A. in its reply in opposition to the requests of the State of Vermont and the Rutland to omit the recommended decision procedure. Lundin, especially, proved, on cross examination, to be deceitful and evasive in his testimony, although much of this is not gleaned from mere examination of the transcript of the hearings. The hearing Examiner's evaluation of the probative value of their testimony was a matter of utmost importance to the plaintiffs, and they were deprived of this by omission of the recommended decision procedure.

However, and more importantly, the decision on this point in Canadian Pacific is clearly erroneous. The Administrative Procedure Act established a mandatory recommended decision procedure in all cases except those in two excepted classifications. The statute does not state that theprocedure in non-excepted cases is mandatory only when "doubtful fact issues" are presented "the determination of which must turn upon the credibility of witnesses and the weight of the evidence." Such a further exception to the recommended decision requirement would lead only to confusion, since the agency would have to evaluate the entire record in advance in order to determine whether such issues were involved, and then make a judgment on the matter. This would bring about challenges by dissatisfied parties to such determinations, and would be a fruitful source of litigation in the courts. The standard set under the statute is infinitely preferable: recommended decision procedure is required in all non-excepted cases and failure to provide for the same invalidates the proceeding pursuant to Section 10(e)(B)(4).

The recommended decision procedure is required not only by Section 8(a) of the Administrative Procedure Act, but also by Section 5(c) which provides:

> "The same officers who preside at the reception of evidence pursuant to Section 7 shall make the recommended decision or initial decision required by Section 8 except where such officers become unavailable to the agency."

Section 5(c) further requires that such officers shall not consult with any person or party on any fact in issue "unless on notice and opportunity for all parties to participate" and that no other officer, employee, or agent of the agency who is engaged in its investigative or prosecuting functions shall participate or advise the hearing examiner in his recommended decision. This is a plain indication of the importance to the administrative process of the independent judgment of the examiner who presided at the hearing; and the Act guarantees that his judgment shall be made under almost clinical conditions, free from outside pressures from all sources. The parties to the proceeding and the agency are not only entitled to the hearing examiner's views on the case under Section 5 and 8 of the Act, they are required to receive them; and a proceeding in which they are not transmitted is invalid, as the decisions cited above illustrate.

In view of the fact that the hearing examiner's recommended decision was erroneously omitted in the present case, the Commission's Report and Order should be set aside, and the cause remanded to the Commission for further proceedings thereon in conformity with law.

II. The Report and Order Are Void Because They Are Not Supported By Substantial Evidence

Pursuant to Section 10(e)(B)(5) of the Administrative Procedure Act, agency action, findings, and conclusions shall be held unlawful and set aside by the court if found to be "unsupported by substantial evidence...."

The leading case on the meaning of "substantial evidence" is Universal Camera Corp. v. N.L.R.B., 340 U.S. 474 (1951). The

Court there stated:

> "Whether or not it was ever permissible for courts to determine the substantiality of evidence supporting a Labor Board decision merely on the basis of evidence which in and of itself justified it, without taking into account contradictory evidence or evidence from which conflicting inferences could be drawn, the new legislation definitely precludes such a theory of review and bars its practice. The substantiality of evidence must take into account whatever in the record fairly detracts from its weight. This is clearly the significance of the requirement in both statutes that courts consider the whole record...."

The Supreme Court also made it clear in Universal Camera that the scope of review required on the issue of substantial evidence was not confined to proceedings before the agency involved in that case, the National Labor Relations Board, but, rather, applied to all agencies subject to the Administrative Procedure Act. 340 U.S. at 487.

We are not going to summarize the evidence adduced throughout the nine days of hearings and 1106 pages of transcript, because, among other reasons, this court may not review the case upon the weight of the evidence. We shall merely point out that the Commission, in general, relied upon two issues to justify its approval of the certificate of abandonment, neither of which was supported by substantial evidence on the record as a whole.

The first, and perhaps the most important, issue was the one of declining traffic. The Rutland offered evidence through its Vice President and Comptroller Lloyd Bucklin that due to the fact that some industries had moved from the area, and, also, the fact that motor carriers diverted some of its traffic, the Rutland's traffic was steadily declining and would reasonably be expected to decline still further in the future.

The evidence on this issue is not substantial, we submit, and, in fact, the proof of unfavorable traffic potential in future years is of the weakest and most conjectural nature. The main evidence of past interline traffic losses due to industries relocating and motor carrier competition is an exhibit, Exhibit H-1, entitled "Traffic Losses Within Recent Years." (Tr. 65). This exhibit showed losses "in recent years" of 6121 carloads which were not offset by "any corresponding increases from new business or the expansion of existing business." (R. 49). This is true as far as it goes, but the Commission paid no attention to the admonition of Rutland witness Sidney Rodgers that the "recent years" of 1959, 1960 and 1961 were poor ones for business in general, and that, as a consequence, railroad carloadings had declined throughout the nation during that period. There is so far as we know, no evidence in the record that the Rutland's freight traffic from existing sources will decline further in the future, and, based on an improvement in the economy from those years, it would follow that traffic from existing sources should increase.

The record shows, in any event, that the Rutland would have been able to operate at least a break even point on the volume of business it would have received in 1961, if the September 25, 1961, strike had not occurred.

The only evidence that exists, apart from the conjecture of witnesses Bucklin and Rodgers, on the issue whether the traffic lost during the recent and continuing strike could be recaptured is a survey of Vermont shippers made by Rodgers in 1962 which shows that if the Rutland resumed operations almost all of its former shippers and users would return to it. No witness offered any factual evidence about the prospects of recapturing overhead traffic (traffic received from and forwarded to connecting carriers), and, thus, the question whether any overhead traffic had been "irretrievably lost," and, if so, approximately how much, is entirely based on speculation. It was shown that the Rutland had closed its out-of-state traffic solicitation offices after the September 25, 1961, strike occurred, and that the agents employed in these offices were responsible for much of the overhead traffic obtained; but if the Rutland resumed operations, it would obviously reemploy these agents or employ new ones in their place.

The record, therefore, does not contain substantial evidence that the normal traffic potential of this line of railroad is below the level that would require its continued operation.

The Commission next concluded that strike had caused such a severe degree of cash attrition that "it would be difficult, if not impossible for it to resume operations." Witness Lloyd Bucklin estimated at the hearings below that the Rutland would need to raise $500,000.00 in order to resume operations at that time. However, he did not indicate that this sum could not be obtained,or that the interest or carrying charge on such sum would be more than the carrier could afford.

The undisputed evidence in the record of need for the railroad services rendered by the Rutland in the States of Vermont and New York —— in Vermont alone cessation of its services will result in an annual loss of at least $680,000.00 and in New York its abandonment would directly hamper the development of the projected Port of Ogdensburg at Ogdensburg, New York, and permanently impair the industrial potential of the "North Country" —— when balanced against the unsubstantiality of the evidence in the record that the railroad cannot be operated profitably *under normal conditions*, militate strongly against the order issued by the Commission. The order was not supported upon substantial evidence when the record is viewed as a whole.

III. The Commission Failed to Consider or Make Necessary Findings on the Question Whether It Would be Contrary to the Policies of the Railway Labor Act to Issue a Certificate of Abandonment Predicated Upon Operating Losses Caused by a Lengthy Strike Which Is Still in Existence

It is apparent that the most material fact contributing to the losses in income suffered by the Rutland was labor trouble. The breakdown in labor relations resulted in the 41 day strike in 1960 and the seemingly interminable strike commenced on September 25, 1961.

The abandonment of this line of railroad, if permitted, would, in truth, be based not upon traffic losses, operating expenses, deferred maintenance costs, or any of the orthodox causes, but upon strike losses. In this respect, the present case is *sui generis* in the field of railroad abandonments. The strike losses were said to be $1,000.00 per day as of the time the hearings below were conducted, at which time the strike had lasted about 190 days. A most peculiar aspect of the case is the fact that with losses mounting to that extent, day by day, the Rutland made no efforts to negotiate a settlement of the strike with the railroad Brotherhoods.

As was earlier noted, the Rutland was authorized by its board of directors to seek authority to abandon its entire line of railroad on October 23, 1961, only 28 days after its employees went on strike. Vice President and Comptroller Bucklin conceded at the hearings if the strike had been settled the railroad "would not be suffering net losses of anywhere near $1,000.00 a day." (Tr. 1010). Even if employee wages had been increased as a result of the settlement of the strike, as long as they were not doubled or tripled, the net loss of $1,000.00 a day would have been reduced. (Tr. 1012). With such an urgent pecuniary motive to settle the strike so as to be able to mitigate losses, it seems incomprehensible that the carrier and its employees would not be able to come to terms if the carrier wanted this result. While settlement of the strike would not have prejudiced the Rutland's right to seek abandonment, it would have enabled the carrier to mitigate its sharp losses, and provide necessary service to shippers. On the other hand, if the Rutland wanted to show the Commission sizable and disproportionate losses at the hearings in order to attempt to justify the abandonment, it would make no effort, and would, in fact, refuse to settle the strike.

The above is not set out with any thought that the court should draw inferences with respect to the good faith of either the Rutland or the striking Brotherhoods in connection with the strike, but, rather, to indicate that the Commission was fairly on notice that an abnormally long strike was in effect at the time of the hearings and that, in view of the unusual circumstances, one or both of the antagonists might well be guilty of failure to bargain in good faith and of other violations of the Railway Labor Act, 45 U.S.C. § 151 et seq.

The Railway Labor Act in Section 2, First, 45 U.S.C. § 152 First, places an affirmative duty upon both carriers and their employees:

> "... to exert every reasonable effort to make and maintain agreements concerning rates of pay, rules, and working conditions and to settle all disputes, whether arising out of the application of such agreements or otherwise, in order to avoid any interruption to commerce as to the operation of any carrier growing out of any dispute between the carrier and the employees thereof."

The obligation placed by the Railway Labor Act to be reasonable and to bargain in good faith so as to avoid interruptions to commerce or to the operation of a carrier is not mere verbiage; it is an obligation legally enforceable at the instance of either party to the dispute. System Federation No. 40, R.E.D. v. Virginian Ry. Co., 300 U.S. 515 (1937); Brotherhood of Ry. & S.S. Clerks v. Atlantic Coast Line R. Co., 201 F. 2d 36 (C. A. 4th 1953). There are also procedures before administrative agencies such as the National Mediation Board, Sections 4 and 5, 45 U.S.C. §§ 154, 155 and the ad hoc Emergency Boards which may be appointed at the discretion of the President of the United States, Section 10, 45 U.S.C. § 160, to attempt to bring to an end strikes resulting in interruption to commerce.

As a matter of fact, if the strike has been illegally fomented or prolonged by the Rutland, the Rutland might well be guilty of violations of the Interstate Commerce Act since it is the duty of a common carrier to provide and furnish transportation upon reasonable request therefor. Interstate Commerce Act, Section 1(4), 49 U.S.C. § 1(4). We submit that the Commission, pursuant to Section 8(b) of the Administrative Procedure Act was obligated to find whether the strike was illegally caused or prolonged by the carrier, and, if it was, to draw conclusions as to whether, in view of this fact, abandonment could be permitted. It was incumbent upon the Rutland, as the applicant and moving party, to place on the record the basic facts concerning the strike so that the Commission could make findings with respect to its total effect on the abandonment application.

An analogous point wa passed upon in the recent decision in Burlington Truck Lines, Inc. v. U.S. et al, _____U.S._____, 9 L. ed. 2d (adv) 207 (December 3, 1962). In Burlington, the Commission certificated a new motor common carrier in circumstances where certain trunk line motor carriers were failing to accept traffic from a group of smaller carriers on account of the fact that the latter carriers were involved in a labor dispute with the Teamsters' Union and the trunk line motor carriers' employees, who were members of the Teamsters Union, were refusing to handle the "hot" freight. The Commission might have issued a "cease and desist" order against the trunk line carriers, but chose, instead, to certificate a new carrier which was willing and able to accept traffic from the smaller carriers. The Supreme Court set the order aside on the ground that the Commission did not adequately justify its selection of remedies. However, the Supreme Court also noted that in view of the nature of the boycott by the Teamsters Union, the facts of which were placed upon the record, the Commission should have considered whether remedies available before the National Labor Relations Board and in the courts would not have adequately disposed of the matter. On this point, the Court said: (9 L.ed. 2d (adv.) 218-219)

> ".... In the absence of authoritative judicial interpretation of § 8(e), however, the District Court was unwilling to attach any significance to the new law in the present case. In this the District Court erred. The plain words of the statute at the very least raised serious questions about the legality of direct union-employer agreements to boycott another employer. Not only would the delinquent interlining carriers in this case be subject to the injunctive and other processes of the National Labor Relations Board if their conduct violated § 8(e), but the unions themselves would be vulnerable and the pressures which generated the refusals to serve might well be effectively removed. These intervening facts so changed the complexion of the case that (even putting aside the considerations discussed above) the reviewing equity court, in the exercise of its sound discretion, should not have affirmed the order, as it did, but should have vacated it and remanded it to the Commission for further consideration in the light of the changed conditions. See Ford Motor Co. v. NLRB, 305 US 364, 373, 374, 83 L ed 221, 229, 230, 59 S Ct 301; Missouri ex rel. Wabash R. Co. v. Public Serv. Com. 273 US 126, 130, 131, 71 L ed 575, 577, 47 S Ct 311; Gulf, C. & S. F. R. Co. V. Dennis, 224 US 503, 506-509, 56 L ed 860-862, 32 S Ct 542.

"Finally, although we do not wish to fetter the Commission's expert, discretionary powers by specifically prescribing that cease-and-desist order relief be granted (if, indeed, any relief is still needed, rather than additional certification, nevertheless the Commission should be particularly careful in its choice of remedy, and should have been particularly careful, because of the possible effects of its decision on the functioning of the national labor relations policy. The Commission acts in a most delicate area here, because whatever it does affirmatively (whether it grants a certificate or enters a cease-and-desist order) may have important consequences upon the collective bargaining processes between the union and the employer. The policies of the Interstate Commerce Act and the Labor Management Relations Act necessarily must be accommodated, one to the other. Writing before the 1959 amendments to the labor law, this Court said in the Sand Door Case:

> 'But it is said that the Board is not enforcing the Interstate Commerce Act or interfering with the Commission's administration of that statute, but simply interpreting the prohibitions of its own statute in a way consistent with the carrier's obligations under the Interstate Commerce Act. Because of that Act a carrier cannot effectively consent not to handle the goods of a shipper ....But the fact that the carrier's consent is not effective to relieve him from certain obligations under the Interstate Commerce Act does not necessarily mean that it is ineffective for all [§ 8(b)(4),LMRA] purposes, nor should a determination under one statute be mechanically carried over in the interpretation of another statute involving significantly different considerations and legislative purposes.' 357 US, at 110.

"The Court concluded that although 'common factors may emerge in the adjudication of these questions' under the two Acts by the two different agencies, nevertheless independent consideration and resolution were possible, the National Labor Relations Board directing itself to consideration of whether the employees violated their duties under § 8(b) and the Interstate Commerce Commission directing its attention to whether the carrier 'may have failed in his obligations under the Interstate Commerce Act.'

> "*Implicit in this analysis is a recognition that if either agency is not careful it may trench upon the other's jurisdiction, and because of lack of expert competence, contravene the national policy as to transportion or labor relations*. In such a context, choice of the sweeping relief of certification rather than the more precise and narrowly drawn cease-and-desist order remedy was improvident, absent a compelling justification. And the fact that § 8(e) of the Labor Management Relations Act now exposes the employer, as well as the union to Labor Board injunctive processes only underlines *the necessity for careful analysis in fashioning a remedy to terminate unlawful action by delinquent carriers*. This is not to say that circumstances can never permit the Commission to authorize additional service to remedy refusals to serve, but the Commission must act with a discriminating awareness of the consequences of its action. It has not done so here." (Emphasis supplied.)

What the Supreme Court in *Burlington Truck Lines, Inc*. said about the necessity for accommodation of the policies of the Labor Management Relations Act to those of the Interstate Commerce Act certainly applies also to the policies of the Railway Labor Act. The Commission in the present case, after receiving no substantial evidence as to the facts, issues, and positions and conduct of the parties in connection with the current strike said at page 26 of the Report:

> "We realize that we have no jurisdiction over labor disputes. It does not follow, however, that in the proper performance of our statutory duties, we may not authorize the abandonment of a rail line, if otherwise justified, merely because the carrier concerned is involved in a labor dispute with its employees. As far as we can ascertain, there is no provision of law which would require us to defer our decision in the instant proceeding pending the settlement of the existing labor dispute between the carrier and its employees. The issue before us is whether the present and future public convenience and necessity permit the proposed abandonment."

This finding is plainly inadequate under the standards prescribed in Burlington Truck Lines, Inc., supra. The report and order of the Commission herein accordingly should be annulled, set aside, and remanded to the Commission for the taking of additional evidence on the strike issue, and for findings and conclusions, made after consideration of the policies of the Railway Labor Act, as to the effect of the strike on the Commission's right and authority to authorize the abandonment.

IV. The Report and Order Are Arbitrary and Capricious and In Excess of the Commission's Statutory Jurisdiction in That the Abandonment Was Authorized on the Premise that the Rutland Would Sell Vital Portions of Its Lines to Other Carriers

The court cannot help but come to the conclusion from reading the Commission's Report herein that actual abandonment of this entire line of railroad, especially in the State of Vermont, is not conceived as a probable, or even a possible, outcome of the issuance of the certificate. Thus, the Rutland itself took the position that "the abandonment sought is likely to result in restoration of rail service to important segments of its line...." (R. 5). The State of Vermont, in supporting the Rutland's application, "is in favor of the earliest possible restoration of as much of that service as it is possible to restore." (R. 29). The Associated Industries of Vermont, which has a membership of over 500 Vermont companies took the position that "the only feasible means of restoring rail service to the economically important areas of Vermont was through granting the application herein subject to the conditions of the stipulation (an agreement between the Rutland and the State of Vermont giving the latter to designate purchaser for certain sections of the line). (R. 42). Even the Commission went along with the theory, and it concluded: "If the Rutland is authorized to abandon its line, however, other carriers, individuals, or specially created corporate bodies are likely to acquire important segments of the line, or the entire line, and thereby bring about a resumption of service." (R. 55).

If all of these parties, and also the Commission, are correct, this is not an abandonment proceeding at all; it is a proceeding to permit the Rutland to sell all or part of its line to another carrier, which, pursuant to an application under Section 5(2) of the Interstate Commerce Act, it could have accomplished without filing an abandonment application. It is, of course, true that a sale of all or any part of the Rutland's line to another carrier pursuant to Section 5(2) of the Interstate Commerce Act would probably not be approved by the Commission without the imposition of conditions for the protection of employees who would, or might, be adversely affected by the transaction. It is assumed that, with protective conditions attached to the sale, the Rutland would not be attractive to other carriers as an investment. (Tr. 728-729).

However, abandonment proceedings are to be utilized for the purpose of eliminating unnecessary lines of railroad, or lines that can no longer be economically justified.

Abandonment is not a device to circumvent the normal sale or acquisition procedure required under Section 5(2), and permit parties to do indirectly what may not be done directly.

We submit that this line of railroad —— and by this we do not mean merely the corporation that owns or operates it —— is either essential to the present and future public convenience and necessity, or it is not. The determination of this issue requires a consideration of the fact of the public use of and need for the railroad service and a balancing of that against the present and anticipated future losses from continued operation. As the Commission put it in Chicago, R. I. & P. Ry Co., Trustees, Abandonment, 230 I.C.C. 341, 347 (1938):

> "The question to be determined herein is whether the proposed abandonment is consistent with public convenience and necessity. The benefits accruing to the public from continued rail transportation service, the present and prospective needs of the public for such service commensurate with its ability to support a railroad, and the loss and inconvenience resulting from abandonment,must be weighed against the losses accruing to the applicants from continued operation."

Under Section 1(18) of the Interstate Commerce Act a carrier may not abandon a line of railroad until:

> "...there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity permit of such abandonment."

Section 1(18) also provides a procedure whereunder a carrier may acquire a line of railroad that has been abandoned by another carrier, and such line may not be acquired until:

> "... there shall first have been obtained from the Commission a certificate that the

> present or future public convenience and necessity require or will require the, construction, or operation, or construction and operation of such additional or extended line of railroad...."

We submit that, as a matter of common sense, the public convenience and necessity cannot permit the abandonment of a line of railroad and, at the same time, require operation over it. Yet, the Commission in the present case has concluded that if the Rutland's entire line is abandoned, a possible beneficial effect might be that the entire line would be quickly acquired and operated by another carrier. This could be accomplished only if the Commission found that the public convenience and necessity required the operation of the same line that it had certified as being not necessary to the public convenience and necessity.

This would make "public convenience and necessity" a completely protean standard, devoid of any real meaning or significance —— virtually a travesty. It would be sheer effrontery to impute to Congress the intention of enacting a wholly meaningless standard. Unless convincing proof were shown, it must be concluded that Congress meant "public convenience and necessity" as a term of art having fixed meaning which can be applied to varying situations to ascertain whether proposed actions in some instances are permitted, and in other instances are required, in accordance therewith. We submit that the Commission while straining with the concept of "public convenience and necessity," and virtually emasculating it, in the present case, really is trying to say that operation of the line by the present ownership and management is not required, but that operation by different owners and managers is essential. Abandonment on such a basis is not permitted under the statute

[Section 1(18)], however, which requires that operation of the line be evaluated from the point of view of "public convenience and necessity."

The Commission's Report and Order herein are, therefore, arbitrary, capricious and invalid under Section 10(e)(B)(1) of the Administrative Procedure Act in that they have permitted abandonment of a line over which the Report implies service is required in the interest of present or future public convenience and necessity. Moreover, the Commission has, in reality, attempted to certify an entire line of railroad for abandonment for the purpose of attempting to restore operations, at least in part, by or through sale of segments or of the entire line to potential and unknown purchasers. An abandonment may not be predicated upon such an objective but may be allowed only when the present or future public convenience and necessity actually permit the permanent discontinuance of the line of railroad. Thus, the Report and Order herein are invalid under Section 10(e)(B)(3) of the Administrative Procedure Act in that abandonment for such an objective is in excess of the statutory authority and jurisdiction of the Commission.

V. The Report and Order Are Arbitrary and Capricious in that No Conditions Were Imposed for the Protection of Employees Who Would be Adversely Affected by the Abandonment and No Findings and Conclusions Disclosing an Adequate Reason Therefor Are Contained in the Report

Plaintiffs R.L.E.A. and B.L.E. in the event abandonment of the entire line was permitted, sought to have conditions imposed upon the carrier's right to abandon to the effect that adequate provision be made to protect the employees who thereafter would be permanently displaced in their railroad employment. This could be in the form of some type of severance pay, retraining allowances, or any of a number of types of provisions. Their request was rejected by the Commission in summary fashion, on the wholly inadequate basis that in past entire line abandonment cases, protective conditions have not been imposed. The Commission said:

> "This Commission has refused to impose conditions for the protection of railway employees adversely affected by the abandonment of an entire line of railroad. Our findings herein in permitting abandonment as requested, except as to the Norwood-Malone Junction, over which only abandonment of operations by the Rutland is permitted, do not warrant the imposition of conditions for the protection of employees since the limitation of the abandonment will not require the retention of any employees by the Rutland for the purpose of conducting railroad operations.
>
> * * *
>
> "Here we have no such relationship, [referring to the Savannah Union Station Co. case, infra.] nor is there any evidence of record of circumstances making the imposition of protective labor conditions reasonable and in the public interest. We find no justification in this proceeding for deviating from a long line of precedents more closely related to the present proceeding, and no conditions for the protection of railway employees who may be adversely affected will be imposed."

The only case cited by the Commission in its Report in support of its ruling that purports to give any reason for the denial of protective conditions is Susquehanna & N.Y.R. Co. Abandonment, 252 I.C.C. 81, 88 (1942), a decision rendered at a time when the Commission mistakenly assumed that it lacked statutory authority to impose them in abandonment cases. In that case, the Commission merely said:

> "The Brotherhood of Locomotive Firemen and Enginemen and the Brotherhood of Railroad Trainmen request that we require the applicant to protect employees who may be affected by the abandonment. We have long been of opinion that we are without jurisdiction to attach conditions for the protection of employees in abandonment proceedings. See Chicago G. W. R. Co. Trackage, 207 I.C.C. 315. A test case to secure judicial determination of

> the question is pending in the courts; but in that case abandonment of only a part of the carrier's railroad is involved. In the related proceeding before us, and in subsequent similar proceedings, we have reserved jurisdiction pending final determination of the question by the courts. In the present case, however, the applicant does not propose partial abandonment, but proposes to abandon its entire line and go out of business entirely. It is well settled that no carrier by railroad can be compelled to continue in operation at a loss, Brooks-Scanlon Co. v. Louisiana R. Comm., 251 U.S. 396, and it is a necessary corollary, we think, that a carrier cannot be compelled to remain in business merely for the purpose of furnishing employment."

The landmark case of I.C.C. v. Railway Labor Executives' Assn., 315 U.S. 373 (1942) put an end to the question whether the Commission had the statutory authority to impose such conditions in abandonment cases. While on its facts, I.C.C. v. Railway Labor Executives' Assn., involved a series of extensive partial abandonments rather than an entire line abandonment, the issue as stated by the Court was:

> "Whether it is within the Commission's power in abandonment proceedings to impose conditions for the protection of employees...." (315 U.S. at 375).

In holding that the Commission had such authority pursuant to Section 1(20) of the Act, the Supreme Court said:

> ".... Clear recognition that 'public convenience and necessity' includes the consideration of effects on the national transportation system of a proposed abandonment appears in the decision of this Court in Colorado v. United States, 271 US 153, 70 L ed 878, 46 S Ct 452. There, Mr. Justice Brandeis, although stating that 'public convenience and necessity' was the sole criterion for determining whether or not an abandonment should be allowed, nevertheless considered the effect of the proposed abandonment in a much broader sphere than the immediate locality and population served by the trackage to be abandoned. See also Transit Commission v. United States, 284 US 360, 76 L ed 342, 52 S Ct 157.

> And if national interests are to be considered in connection with an abandonment, there is nothing in the Act to indicate that the national interest in purely financial stability is to be determinative while the national interest in the stability of the labor supply available to the railroads is to be disregarded. On the contrary, the Lowden Case recognizes that the unstabilizing effects of displacing labor without protection might be prejudicial to the orderly and efficient operation of the national railroad system. Such possible unstabilizing effects on the national railroad system are no smaller in the case of an abandonment like the one before us than in a consolidation like that involved in the Lowden Case. Hence, it is only by excluding considerations of national policy with respect to the transportation system from the scope of 'public convenience and necessity,' an exclusion inconsistent with the Act as this Court has interpreted it, that the distinction made by the Commission can be maintained.
>
> " * * * It must not be forgotten, however, that the immediate result of permitting the abandonment itself is a private benefit for the railroad in the form of savings realized by discontinuing uneconomic services. The justification lies in the benefit to the transportation system which the Commission concluded the abandonment would produce. There is nothing in the Act to prevent the Commission from taking action in furtherance of the 'public convenience and necessity' merely because the total impact of that action will include benefits to private persons, either carriers or employees. The Lowden Case specifically recognized that the imposition of conditions similar to those sought here might strengthen the national system through their effect on the morale and stability of railway workers generally. Exactly the same considerations of national importance are applicable and operative here." (315 U.S. at 377-378). (Emphasis supplied.)

Despite the fact that I.C.C. v. Railway Labor Executives' Assn. held that employee protective conditions may be imposed in abandonment cases on the basis of "the national interest in the stability of the labor supply available to the railroads," the Commission continued to follow, and never reconsidered the validity of, its previous narrow holding in Susquehanna & N. Y. R. Co. Abandonment, supra, until Savannah Union Station Company, Abandonment, F.D. 21499 (May 2, 1962), not yet officially reported.[7] In that case, the Savannah Union Station sought, and obtained, authority to abandon its entire line. The abandonment, while a separate proceeding, was a part of a larger plan to construct new station facilities at a different location. The Commission, in its initial decision automatically imposed its normal and inflexible per se rule: no employee protective conditions are permitted in any entire line abandonment. Upon petition for reconsideration, however, the Commission was persuaded to view the matter on its own intrinsic merits and, thereafter, found that the abandonment was a part of an inseparable plan of operation for the construction of new facilities. In those circumstances, the Commission held it was proper to impose employee protective conditions. The Commission said:

> ".... Although we have not generally imposed such conditions in cases involving abandonment of an entire line of railroad, there is no statutory prohibition on our doing so and, where circumstances make such action reasonable and in the public interest, it is our duty to afford protection to employees who may be adversely affected by such an abandonment.***From the above [quotation from I.C.C. v. Railway L.E. Assn. supra.] it is clear that the ultimate objective and primary justification for labor conditions are not the private benefit of particular employees, but the strengthening of the national transportation system through avoidance of the unstabilizing effects which result from the displacement of labor without protection." (Emphasis supplied.)

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[7] In view of this fact, a copy of the full decision in this case is attached hereto as Appendix B.

The Savannah Union Station Company case dealt with an abandonment that had elements or aspects different from "normal" abandonment cases. The instant case does also. In truth, every abandonment case has elements distinguishing it from each previous one, and it is not a proper exercise of administrative discretion to categorize all entire line abandonments as one and the same for purposes of imposing a per se rule with respect to the imposition of employee protective conditions.

In almost all entire line abandonment cases the carrier is hopelessly insolvent and no protective conditions are imposed for the simple reason that the carrier could not pay their cost. The Rutland never disputed the allegation that it could afford to pay the cost of employee protective conditions, and it opposed plaintiff R.L.E.A.'s request to reopen the proceedings to take evidence on the issue whether excessive or windfall profits might be derived from the abandonment. Is ability to pay a criterion to be considered in connection with the question whether employee protective conditions should be imposed? The Commission was unwilling to pass upon this question, or to consider any other facts in the case, such as the effect of the prolonged strike and the carrier's possible responsibility therefor, to ascertain whether in view of those circumstances, the imposition of such conditions would be warranted.

Plaintiffs submit that given nothing more than ample ability to pay the cost, it is difficult to perceive why, in our day and age, the imposition of such conditions would not be "reasonable" and "in the public interest." The Commission must, at least, give its reason for concluding that it is not a sufficient justification for their imposition.

The United States Supreme Court in recent years has struck down a number of administrative decisions which were based upon arbitrary adherence to a per se rules developed by various agencies, and has constantly emphasized that administrative agencies must find rational justification for their decisions based upon adequate factual bases. Burlington Truck Lines, Inc. supra, is one such case. N.L.R.B. v. American Nat. Ins. Co. 343 U.S. 394 (1952) was another. In that case, the Court struck down the N.L.R.B.'s finding that an employer's insistence upon a "management function clause" as a counterproposal to the union's demand for unlimited arbitration was "per se" a violation of the National Labor Relations Act. See also: N.L.R.B. v. Mountain Pacific Chapter of Associated General Contractors, Inc., 270 F. 2d 425 (C.A. 9th 1959), in which the rule of the N.L.R.B. that an exclusive hiring hall arrangement was illegal per se unless certain conditions prescribed by the Board were met was disapproved.

It is clear that the Commission did not attempt to ascertain whether in the light of the particular facts in the present case the imposition of employee protective conditions would be "reasonable" and "in the public interest." Instead it adhered to a long outdated rule that per se denied such conditions in all entire line abandonment cases. This was one of the important issues in the case. The Commission's disposition of it was arbitrary and capricious, and it constituted an abuse of administrative discretion. For this reason also, the Report and Order should be set aside and remanded to the Commission with instructions to reconsider this issue in accordance with standards required by law.

CONCLUSION

Plaintiffs R.L.E.A. and B.L.E., for the reasons given above, respectfully submit that the Report and Order of the Commission in this proceeding are illegal and erroneous and should be enjoined, set aside, annulled, and suspended by the Court.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document upon each of the parties of record hereto by sending a copy thereof to each party of record via first class mail or air mail, postage prepaid.

Dated at Toledo, Ohio, this 8th day of April, 1963.

Donald W. Fisher
Attorney for Plaintiffs

APPENDIX A

THE INTERSTATE COMMERCE ACT
49 U.S.C. § 1

Sec. 1. (18) After ninety days after this paragraph takes effect no carrier by railroad subject to this part shall undertake the extension of its line of railroad, or the construction of a new line of railroad, or shall acquire or operate any line of railroad, or extension thereof, or shall engage in transportation under this part over or by means of such additional or extended line of railroad, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such additional or extended line of railroad, and no carrier by railroad subject to this part shall abandon all or any portion of a line of railroad, or the operation thereof, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity permit of such abandonment. Nothing in this paragraph or in section 5 shall be considered to prohibit the making of contracts between carriers by railroad subject to this part, without the approval of the Commission, for the joint ownership or joint use of spur, industrial, team, switching, or side tracks.

Sec. 1. (19) The application for and issuance of any such certificate shall be under such rules and regulations as to hearings and other matters as the Commission may from time to time prescribe, and the provisions of this part shall apply to all such proceedings. Upon receipt of any application for such certificate the Commission shall cause notice thereof to be given to and a copy filed with the governor of each State in which such additional or extended line of railroad is proposed to be constructed or operated, or all or any portion of a line of railroad, or the operation thereof, is proposed to be abandoned, with the right to be heard as hereinafter provided with respect to the hearing of complaints or the issuance of securities; and said notice shall also be published for three consecutive weeks in some newspaper of general circulation in each county in or through which said line of railroad is constructed or operates.

Sec. 1. (20) The Commission shall have power to issue such certificate as prayed for, or to refuse to issue it, or to issue it for a portion or portions of a line of railroad, or extension thereof, described in the application, or for the partial exercise only of such right or privilege, and may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require. From and after issuance of such certificate, and not before, the carrier by railroad may, without securing approval other than such certificate, comply with the terms and conditions contained in or attached to the issuance of such certificate and proceed with the construction, operation, or abandonment covered thereby. Any construction, operation, or abandonment contrary to the provisions of this paragraph or of paragraph (18) or (19) of this section may be enjoined by any court of competent jurisdiction at the suit of the United States, the Commission, any commission or regulating body of the State or States affected, or any party in interest; and any carrier which, or any director, officer, receiver, operating trustee, lessee, agent, or person, acting for or employed by such carrier, who knowingly authorizes, consents to, or permits any violation of the provisions of this paragraph or of paragraph (18) of this section, shall upon conviction thereof be punished by a fine of not more than $5,000 or by imprisonment for not more than three years, or both.

ADMINISTRATIVE PROCEDURE ACT

Sec. 5. [5 U.S.C. § 1004.] In every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing, except to the extent that there is involved (1) any matter subject to a subsequent trial of the law and the facts de novo in any court; (2) the selection or tenure of an officer or employee of the United States other than examiners appointed pursuant to section 11; (3) proceedings in which decisions rest solely on inspections, tests, or elections; (4) the conduct of military, naval, or foreign affairs functions; (5) cases in which an agency is acting as an agent for a court; and (6) the certification of employee representatives—

(a) Notice.— Persons entitled to notice of an agency hearing shall be timely informed of (1) the time, place, and nature thereof; (2) the legal authority and jurisdiction under which the hearing is to be held; and (3) the matters of fact and law asserted. In instances in which private persons are the moving parties, other parties to the proceeding shall give prompt notice of issues controverted in fact or law; and in other instances agencies may by rule require responsive pleading. In fixing the times and places for hearings, due regard shall be had for the convenience and necessity of the parties or their representatives.

(b) Procedure.— The agency shall afford all interested parties opportunity for (1) the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment where time, the nature of the proceeding, and the public interest permit, and (2) to the extent that the parties are unable so to determine any controversy by consent, hearing, and decision upon notice and in conformity with sections 7 and 8.

(c) Separation of functions.— The same officers who preside at the reception of evidence pursuant to section 7 shall make the recommended decision or initial decision required by section 8 except where such officers become unavailable to the agency. Save to the extent required for the disposition of ex parte matters as authorized by law, no such officer shall consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate; nor shall such officer be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for any agency. No officer, employee, or agent engaged in the performance of investigative or prosecuting functions for any agency in any case shall, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to section 8 except as witness or counsel in public proceedings. This subsection shall not apply in determining applications for initial licenses or to proceedings involving the validity or application of rates, facilities, or practices of public utilities or carriers; nor shall it be applicable in any manner to the agency or any member or members of the body comprising the agency.

(d) Declaratory orders.— The agency is authorized in its sound discretion, with like effect as in the case of other orders, to issue a declaratory order to terminate a controversy or remove uncertainty.

Sec. 8. [5 U.S.C. § 1007.] In cases in which a hearing is required to be conducted in conformity with section 7—

(a) Action by subordinates.— In cases in which the agency has not presided at the reception of the evidence, the officer who presided (or, in cases not subject to subsection (c) of section 5, any other officer or officers qualified to preside at hearings pursuant to section 7) shall initially decide the case or the agency shall require (in specific cases or by general rule) the entire record to be certified to it for initial decision. Whenever such officers make the initial decision and in the absence of either an appeal to the agency or review upon motion of the agency within time provided by rule, such decision shall without further proceedings then become the decision of the agency. On appeal from or review of the initial decisions of such officers the agency shall, except as it may limit the issues upon notice or by rule, have all the powers which it would have in making the initial decision. Whenever the agency makes the initial decision without having presided at the reception of the evidence, such officers shall first recommend a decision except that in rule making or determining applications for initial licenses (1) in lieu thereof the agency may issue a tentative decision or any of its responsible officers may recommend a decision, or (2) any such procedure may be omitted in any case in which the agency finds upon the record that due and timely execution of its functions imperatively and unavoidably so requires.

(b) Submittals and decisions.— Prior to each recommended, initial, or tentative decision, or decision upon agency review of the decision of subordinate officers the parties shall be afforded a reasonable opportunity to submit for the consideration of the officers participating in such decisions (1) proposed findings and conclusions, or (2) exceptions to the decisions or recommended decisions of subordinate officers or to tentative agency decisions, and (3) supporting reasons for such exceptions or proposed findings or conclusions. The record shall show the ruling upon each such finding, conclusion, or exception presented. All decisions (including initial, recommended, or tentative decisions) shall become a part of the record and include a statement of (1) findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record; and (2) the appropriate rule, order, sanction, relief, or denial thereof.

Sec. 10. [5 U.S.C. § 1009.] Except so far as (1) statutes preclude judicial review or (2) agency action is by law committed to agency discretion—

(a) Right of review.— Any person suffering legal wrong because of any agency action, or adversely affected or aggrieved by such action within the meaning of any relevant statute, shall be entitled to judicial review thereof.

(b) Form and venue of action.— The form of proceeding for judicial review shall be any special statutory review proceeding relevant to the subject matter in any court specified by statute or, in the absence of inadequacy thereof, any applicable form of legal action (including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus) in any court of competent jurisdiction. Agency action shall be subject to judicial review in civil or criminal proceedings for judicial enforcement except to the extent that prior, adequate, and exclusive opportunity for such review is provided by law.

(c) Reviewable acts.— Every agency action made reviewable by statute and every final agency action for which there is no other adequate remedy in any court shall be subject to judicial review. Any preliminary, procedural, or intermediate agency action or ruling not directly reviewable shall be subject to review upon the review of the final agency action. Except as otherwise expressly required by statute, agency action otherwise final shall be final for the purposes of this subsection whether or not there has been presented or determined any application for a declaratory order, for any form of reconsideration, or (unless the agency otherwise requires by rule and provides that the action meanwhile shall be inoperative) for an appeal to superior agency authority.

(d) Interim relief.— Pending judicial review any agency is authorized, where it finds that justice so requires, to postpone the effective date of any action taken by it. Upon such conditions as may be required and to the extent necessary to prevent irreparable injury, every reviewing court (including every court to which a case may be taken on appeal from or upon application for certiorari or other writ to a reviewing court) is authorized to issue all necessary and appropriate process to postpone the effective date of any agency action or to preserve status or rights pending conclusion of the review proceedings.

(e) Scope of review.— So far as necessary to decision and where presented the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of any agency action. It shall (A) compel agency action unlawfully withheld or unreasonably delayed; and (B) hold unlawful and set aside agency action, findings, and conclusions found to be (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (2) contrary to constitutional right, power, privilege, or immunity; (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; (4) without observance of procedure required by law; (5) unsupported by substantial evidence in any case subject to the requirements of sections 7 and 8 or otherwise reviewed on the record of an agency hearing provided by statute; or (6) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court. In making the foregoing determinations the court shall review the whole record or such portions thereof as may be cited by any party, and due account shall be taken of the rule of prejudicial error.

APPENDIX B

SERVICE DATE
MAY 2, 1962

INTERSTATE COMMERCE COMMISSION

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Finance Docket No. 21498[1]

SEABOARD AIR LINE RAILROAD COMPANY--TRACKAGE RIGHTS--ATLANTIC COAST LINE RAILROAD COMPANY

- - - - -

Decided April 25, 1962

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On reconsideration:

1. Acquisition by the Seaboard Air Line Railroad Company of trackage rights over a segment of the line of the Atlantic Coast Line Railroad Company at Savannah, Ga., approved and authorized. Conditions prescribed.

2. Certificate issued permitting abandonment by the Savannah Union Station Company of its entire line of railroad located at Savannah, Chatham County, Ga. Conditions prescribed.

Additional appearances:
Edward J. Hickey, Jr., and James L. Highsaw, Jr., for Railway Labor Executives' Association.

REPORT OF THE COMMISSION ON RECONSIDERATION

DIVISION 3, ACTING AS AN APPELLATE DIVISION,

COMMISSIONERS TUGGLE, McPHERSON AND BUSH

BY DIVISION 3:

By its report, certificate and order of June 12, 1961, Finance Board No. 3 (a) In Finance Docket No. 21498, authorized the Seaboard Air Line Railroad Company (Seaboard) to acquire trackage rights over a segment of the line of railroad of the Atlantic Coast Line Railroad Company (Coast Line) at Savannah, Ga., subject to the same conditions for the protection of railway employees of Coast Line and Seaboard as were prescribed in Oklahoma Ry. Co. Trustee Abandonment, 257 I.C.C. 177, and (b) in Finance Docket No. 21499, permitted the Savannah Union Station Company (Union Station) to abandon its entire line of railroad located at Savannah, Chatham County, Ga., subject to the condition that the abandonment shall not become effective until the date operations are commenced at a new passenger station to be constructed at Savannah. There were no conditions imposed for the protection of Union Station employees that might be adversely affected by the abandonment. The Railway Labor Executives' Association (Association) intervened in Finance Docket No. 21498 but filed no appearance in the companion abandonment proceeding.

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[1] This report also embraces Finance Docket No. 21499, Savannah Union Station Company--Abandonment of Entire Line.

By petition filed July 3, 1961, the Association requests that we reconsider the Board's report, certificate and order for the purpose of modifying it to the extent of imposing the same conditions for the protection of employees adversely affected by both the abandonment and trackage rights transactions as are contained in the New Orleans Union Passenger Terminal Case, 282 I.C.C. 271. Seaboard and Union Station, hereinafter collectively referred to as applicants, jointly replied. The Association requests oral argument on the issues raised by its petition, but we do not believe such argument necessary properly to dispose of the issues presented, and the request therefor is denied. The Association does not contend that either application should be denied, and our reconsideration of the matters involved will thus be limited to those issues related to the imposition of conditions for the protection of railway employees. The facts, findings and conclusions contained in the report by the Board are adopted and incorporated herein by reference, except to the extent that the Oklahoma Ry. Co. Trustee Abandonment, supra, employee protective conditions were imposed.

Union Station is controlled through equal stock ownership by Seaboard, Coast Line and the Southern Railway Company (Southern), and the three railroads jointly used its terminal facilities until October 1, 1957, when Southern discontinued passenger operations into Savannah. Since that time only Coast Line and Seaboard have used the station facilities, although Southern still maintains stock ownership in the company. Union Station does not own or lease rolling equipment and operates no train service. All passenger strains arriving and departing from the station are owned and operated by the user lines. Incidental switching is performed by employees of Union Station with power equipment owned by the user lines.

The passenger station and a portion of the right-of-way owned by Union Station are to be sold to Chatham County to allow the construction of an interstate highway by the Georgia State Highway Department along and over the right-of-way and station grounds, necessitating removal of the station building and tracks. In order to continue passenger service into Savannah, Seaboard and Coast Line will jointly construct a new passenger station at a site near Telfair Road in West Savannah. The trackage rights will allow Seaboard access to the proposed passenger terminal.

Union Station will remain in possession of the properties to be sold for a period not exceeding 18 months, following their conveyance, in order to afford the carriers time to construct the new station.

Applicants question the propriety of the petition filed by the Association insofar as it seeks relief in the abandonment proceeding. They contend that the Association is not a party to the proceeding, that it has made no attempt to intervene, that it has made no showing that it duly represents employees who might be affected by the transaction, and that, absent an explanation as to why it should be permitted to intervene at this late date, the petition should be rejected.

Although the Association did not file a protest to the abandonment application, its absolute right to become a party to the proceeding at the time of filing pursuant to the provisions of section 17(11) of the act cannot be disputed. Brotherhood of Railroad Trainmen v. Baltimore & O. R. Co., et al., 331 U.S. 519. The Association did, however, intervene in the trackage rights proceeding, and while the abandonment and trackage rights applications were filed as separate documents and given separate docket numbers, they involve interrelated matters and were decided by the Board on a consolidated record. As an intervener in one of the proceedings, the Association was qualified as a party to petition for reconsideration of the subject order.[2]

Applicants argue that the Finance Board properly approved the proposed abandonment without imposing employee protective conditions. The contention is based upon decision wherein we have refused, in the past, to impose conditions for the protection of railway employees adversely affected by the abandonment of an entire line of railroad.[3] Applicants assert that after the abandonment, Union Station will be liquidated and thus be unable to provide employee protection. It is further argued by applicants that just as this Commission refrains from imposing employee protective obligations against a carrier not before it in a section 5(2) proceeding,[4] we should likewise refrain from imposing employee protective obligations on either Seaboard or Coast Line, inasmuch as neither is a party before us in the abandonment proceeding.

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[2] In this respect also, at the time the Association filed its petition for reconsideration, section 1.225(b), as amended, of the Commission's special rules of practice governing procedure by the Finance Boards (49 C.F.R. 1.225) stated, among other things, the following:

> A petition for reconsideration of an order of***a Finance Board*** may be filed by any interested person***(emphasis supplied)

The Association's interest on behalf of employees in abandonment proceedings has been consistently recognized.

The cases cited by applicants in support of their position that employee protective conditions should not be imposed in connection with the abandonment of an entire line of railroad did not involve abandonments related to an inseparable plan of operation, the effectuation of which required authority under Section 5.

In Texas & P. Ry. Co. et al., Operation, etc., 247 I.C.C. 285, the question arose as to whether this Commission had jurisdiction to require protection for employees adversely affected by a plan of operation whereby the main purpose of the applicant therein was to utilize the New Orleans gateway to better advantage by the abandonment of certain of its ferries and the use of a bridge jointly with other carriers. Although the application for permission to abandon the ferry operation and to construct connecting tracks was filed under section 1(18) of the act, it was held that such abandonment and construction were component parts of a modified plan of operation; and that inasmuch as the proposed dismissal of employees in the case arose out of an inseparable plan of operation which, in part, could only be made effective upon authorization under 5(2) of the act, the employee protective conditions of sub-paragraph (2)(f) of that section must be complied with.

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[3] Compare Susquehanna & N. Y. R. Co. Abandonment, 252 I.C.C. 81, Salt Lake & U. R. Corp. Receivership Abandonment, 261 I.C.C. 813, Pittsburgh, S. & N. R. Co. Trustees Abandonment, 267 I.C.C. 802, Rapid City B. H. & W. R. Co. Abandonment, 267 I.C.C. 816, Cisco & N. E. Ry. Co. Abandonment, 267 I.C.C. 139, Black Mountain Ry. Co. Abandonment, 290 I.C.C. 238, and Chicago, R. I. & P. R. Co. Acquisition, 290 I.C.C. 696.

[4] Baltimore & O. R. Co. Operation, 261 I.C.C. 615, and Spartanburg Terminal Company Construction, 295 I.C.C. 806

The facts in the case just cited may be distinguished from those present here in that all of the applicants in the prior abandonment proceeding also were applicants in the section 5 proceeding. It also should be noted that the cited decision was rendered prior to the decision of the United States Supreme Court holding that we have authority in proceedings under section 1(18) to impose conditions for the protection of employees. I.C.C. et al v. Railway L. E. Assn. et al., 315 U.S. 373. Although we have not generally imposed such conditions in cases involving abandonment of an entire line of railroad, there is no statutory prohibition on our doing so and, where circumstances make such action reasonable and in the public interest, it is our duty to afford protection to employees who may be adversely affected by such an abandonment. In I.C.C. et al. v. Railway L. E. Assn., et al, supra, the court said:

> And if national interests are to be considered in connection with an abandonment, there is nothing in the Act to indicate that the national interest in purely financial stability is to be determinative while the national interest in the stability of the labor supply available to the railroads is to be disregarded. On the contrary, the Lowden case recognizes that the unstabilizing effects of displacing labor without protection might be prejudicial to the orderly and efficient operation of the national railroad system. Such possible unstabilizing effects on the national railroad system are no smaller in the case of an abandonment like the one before us than in a consolidation like that involved in the Lowden case.

From the above it is clear that the ultimate objective and primary justification for labor conditions are not the private benefit of particular employees, but the strengthening of the national transportation system through avoidance of the unstabilizing effects which result from the displacement of labor without protection.

The same two carriers, Seaboard and Coast Line, which now have the power together through stock ownership to control Union Station, and thus develop and direct its policies and decisions, and who now generally use its line and facilities to provide passenger service at Savannah, will construct and own the new station, and will continue to provide passenger service at Savannah not unlike that now provided.

Under the circumstances described, we are of the view that conditions for the protection of the employees of Union Station who may be adversely affected by the abandonment incident to the new plan of operation will be in the public interest and consistent with the general purposes of the Interstate Commerce Act. As Seaboard and Coast Line are the real parties in interest and the beneficiaries of the modified plan of operation at Savannah, the cost incident thereto in respect of the employees of Union Station should be borne equally by them, and our findings will so provide.

Insofar as the specific terms for the protection of employees to be adversely affected are concerned, the Association contends that since the abandonment of the station and the utilization of the trackage rights authorized will commence some 18 months after our approval of the transactions, some of the protection to be derived from the imposition of labor protective conditions will be lost if the Oklahoma conditions, which are limited in time to a period of four years from the effective date of our order, are imposed. The New Orleans conditions, on the other hand, afford more adequate protection where the authorized operation will not be initiated until sometime after the effective date of our order and employees are not adversely affected until then or a still later date. By imposing the New Orleans conditions, full protection of employees, in the event any unforeseen delays occur in commencing the operation, will be assured, and if the scheduled operation commences as planned, employees will not be deprived of 18 or more months of protection. We agree with the contentions of the Association that the New Orleans conditions should be imposed in both proceedings.

Upon reconsideration, we find that, subject to the same conditions as are contained in Supra, 282 I.C.C. 271 for the protection of the railway employees of the Atlantic Coast Line Railroad Company, the Seaboard Air Line Railroad Company and the Savannah Union Station Company to be born equally by Atlantic Coast Line Railroad Company and Seaboard Air Line Railroad Company,

(1) the present and future public convenience and necessity permit the abandonment by the Savannah Union Station Company of its entire line of railroad, and (2) the acquisition by the Seaboard Air Line Railroad Company of trackage rights over a portion of the line of the Atlantic Coast Line Railroad Company is a transaction within the scope of section 5(2) of the Interstate Commerce Act, the terms and conditions thereof are just and reasonable, and the transaction will be consistent with the public interest.

An appropriate certificate and order will be entered.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

LEROY GRAHAM, et al., Plaintiffs,	)	
v.	)	CIVIL ACTION NO. 4330-47
SOUTHERN RAILWAY COMPANY, et al., Defendants.	)	ORDER

This cause having come on for hearing on request of all parties other than the Seaboard Air Line Railway Company that this Court approve a compromise settlement of the issues of this litigation as agreed to by said parties through their attorneys and that this Court direct the giving of notice of said compromise settlement pursuant to Rule 23(c) of the Federal Rules of Civil Procedure, and

It appearing to the Court that this is a class action by certain Negro firemen employed by certain southeastern railroads against the Southern Railway Company, the Seaboard Air Line Railway Company, the Atlantic Coast Line Railroad Company, and the Brotherhood of Locomotive Firemen and Enginemen, on their own behalf and on behalf of all of the Negro firemen employed by said railroads, and

It appearing to the Court further that all parties other than the Seaboard Air Line Railway Company have agreed, for the purpose of completely and finally disposing of this litigation as to all parties other than the Seaboard Air Line Railway Company, as follows:

(1) That a permanent injunction be entered restraining and enjoining the defendant Southern Railway Company, the defendant Atlantic Coast Line Railroad Company, the intervening defendant railroad companies and the defendant Brotherhood of Locomotive Firemen and Enginemen as representative of the Negro firemen on said railroad companies and on the Seaboard Air Line Railway Company, their officers, agents and employees, and all persons in active concert or participation with them, from enforcing the Southeastern Carriers' Conference Agreement of February 18, 1941, or any other written or oral agreements, or carrying on any practices under such agreements, which discriminate against plaintiffs or other members of their class in their employment or occupation as firemen on steam locomotives or as helpers on diesel locomotives or from denying to plaintiffs or other members of their class their respective rights to assignments as firemen on steam locomotives or as helpers on diesel locomotives, based upon seniority, because they are Negroes or because they have not been permitted or required to take or pass examinations to qualify as engineers, or from requiring or compelling them to take or pass examinations to qualify as engineers as a condition of their continued employment or continued enjoyment of their seniority rights as firemen on steam locomotives or as helpers on diesel locomotives.

(2) That the defendant Brotherhood of Locomotive Firemen and Enginemen will pay a sum of money for the benefit of plaintiffs and their class as attorneys' fees and reimbursement in part for costs and expenses heretofore incurred in maintaining this litigation.

(3) That, except as provided herein, no damages or other liability to the individual plaintiffs and other members of their class shall be awarded against the defendant Southern Railway Company, the defendant Atlantic Coast Line Railroad Company, the intervening defendant railroad companies or the defendant Brotherhood of Locomotive Firemen and Enginemen; and

It further appearing to the Court that this litigation has been a long and complex one involving huge expenditures and numerous issues many of which remain unresolved; and

It further appearing to the Court that the attorneys for plaintiffs have represented that this compromise settlement will protect the seniority rights of the plaintiffs and their class against the discrimination described in paragraph (1) hereof and is a fair and reasonable disposition of this litigation in the best interests of plaintiffs and their class; and

It further appearing to the Court that the compromise settlement of the issues of this litigation as agreed upon by the parties through their attorneys, is a fair and reasonable disposition of this litigation in the best interests of plaintiffs and their class,

NOW, THEREFORE, It is ordered, adjudged and decreed this 26th day of November, 1951:

1. That notice of the compromise settlement of this action, in the form attached to this order, shall be given to all members of the class represented by plaintiffs in the employ of the Southern Railway Company, of the Atlantic Coast Line Railroad Company and of the intervening defendant railroad companies; and

2. That said notice shall be given by the Southern Railway Company, the Atlantic Coast Line Railroad Company and the intervening defendant railroad companies by mailing a copy of this order within ten days from the date hereof to all members of the class in their employment at the addresses presently on the books of the employing defendant railroad companies and intervening defendant railroad companies. Proof of the mailing of said notice shall be established by affidavit of proper officer of each defendant railroad company that said notice was mailed to each of its Negro employees affected on a date to be within ten days of this order as provided in this paragraph 2, to which affidavit shall be attached a copy of said notice and a list of the names and addresses of the employees to whom the notice was mailed; and

3. That the final order and judgment embodying the compromise settlement set forth above will be brought on for hearing at 10:00 A.M. on the 7th day of January, 1952 before this Court; and

4. Any member of the class represented by plaintiffs not objecting at said hearing to the compromise settlement described above shall be deemed to have consented to said settlement and the terms and conditions of the final order and judgment in all respects as fully as though such member of the class had become an individual party to this suit and shall be forever barred and concluded from hereafter seeking

in any court any relief by way of injunction or for damages in respect of the matters determined in this proceeding.

(s) Alexander Holtzoff
JUSTICE

Consent:

(s) Joseph L. Rauh, Jr.
Attorney for Plaintiffs

(s) M. Kramer
Attorneys for Defendant
Brotherhood of Locomotive Firemen
and Enginemen

(s) Robert R. Faulkner
Attorney for Defendant
Atlantic Coast Line Railroad

(s) W. S. Macgill
Attorney for Defendant
Southern Railway Company and
Intervening Defendants

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

LEROY GRAHAM, et al.,
Plaintiffs,

v.

SOUTHERN RAILWAY COMPANY, et al.,
Defendants.

CIVIL ACTION NO. 4330-47

ORDER

NOTICE OF COMPROMISE SETTLEMENT PURSUANT TO RULE 23(C) OF THE FEDERAL RULES OF CIVIL PROCEDURE

TO: ______________________
____
____

Enclosed herewith is a copy of an order in the above captioned case, issued by the United States District Court for the District of Columbia, setting forth a proposed compromise settlement of this case, which will be brought on for hearing at 10:00 A.M. on the 7th day of January, 1952, before the said Court.

Your particular attention is called to the provisions of Paragraph 4 of the order reading as follows:

> "Any member of the class represented by plaintiffs not objecting at said hearing to the compromise settlement described above shall be deemed to have consented to said settlement and the terms and conditions of the final order and judgment in all respects as fully as though such member of the class had become an individual party to this suit and shall be forever barred and concluded from hereafter seeking in any court any relief by way of injunction or for damages in respect of the matters determined in this proceeding."